

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF IOWA
CENTRAL DIVISION

- - - - - - - - - - - - - - -X
UNITED STATES OF AMERICA, :
: Plaintiff, : Criminal No. 4:15-103
: vs. :
: JESSE R. BENTON and : TRANSCRIPT OF TRIAL
: DIMITRIOS N. KESARI, : VOLUME VI
: Defendants. :
- - - - - - - - - - - - - - -X

Second Floor Courtroom
United States Courthouse
123 East Walnut Street
Des Moines, Iowa 50309
Tuesday, October 20, 2015
8:36 a.m.

BEFORE: THE HONORABLE JOHN A. JARVEY, Chief Judge, and a Jury.

Terri L. Martin, CSR, RPR, CRR
United States Court Reporter
Room 189, U.S. Courthouse
123 East Walnut Street
Des Moines, Iowa 50309

APPEARANCES:

For the Plaintiff:

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For Defendant Benton:

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MEENA T. SINFELT, ESQ.
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For Defendant Kesari:

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Harvey & Binnall
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1 P R O C E E D I N G S

2 (In open court, out of the presence of the jury.)

3 THE COURT: Be seated.

4 Thank you.

5 It's time to make a record concerning the jury
6 instructions. Start with the government.

7 MR. PILGER: Yes, sir.

8 MR. BINNALL: Does the government want to go first?

9 THE COURT: That's what I said, we'll start with the
10 government.11 MR. PILGER: The government has no objection with the
12 court's instructions.

13 THE COURT: Mr. Binnall?

14 MR. BINNALL: Thank you, Your Honor.

15 Your Honor, it's Mr. Kesari's position that the
16 instructions in his initial final jury instructions presented to
17 the court and filed and the one sent to the court via e-mail
18 over the weekend, which will be filed, are correct, and we do
19 think those are the correct instructions to the extent that they
20 are not in conformance with what the court has already provided
21 us.22 In addition, Your Honor, and specifically as to Count
23 2 of the indictment, instruction No. 5, the instruction now does
24 say, "knowingly made or caused to be made." Because cause is
25 not part of the statute, we believe that's inappropriate to be

1 in the jury instruction even with aiding and abetting because,
2 of course, if you're causing someone to make something and that
3 person is neither a principal or would otherwise be culpable
4 under aiding and abetting it would not be appropriate at that
5 point for the causation. Causation is simply just too broad to
6 be included within aiding and abetting, and there is an aiding
7 and abetting jury instruction that already explains what the
8 jury needs to know about that, and causation is simply too
9 broad.

10 Your Honor, I'm trying to find the instruction that
11 was added since last night, and I'm trying to do it on the fly
12 and I don't see it. Does the court know?

13 THE COURT: Middle of page 10 --

14 MR. BINNALL: Middle of page 10.

15 THE COURT: -- and top of page 12.

16 MR. BINNALL: Your Honor, we do object to this
17 language. First of all, we still -- it's our opinion that there
18 still should be something saying that it is not a crime to have
19 sub vendors and to fail to report an ultimate payee because
20 that's not required by the FEC, and here I'm going to make one
21 last very quick pitch because the court at this point I think is
22 pretty familiar with our position.

23 What our objection is about, saying must be false to
24 the recipient specifically, false to the recipient, if in this
25 case the Ron Paul Campaign had reported that the money had gone

1 to Grassroots Strategy or Kent Sorenson and then the Ron Paul
2 Campaign was audited by the Federal Election Commission, it
3 would be incorrect and they could be fined and there could even
4 be criminal charges if they would have put that in the FEC
5 reports because you have to report who you sent the check to and
6 who received the check. And so in this case it would have been
7 if they were paying ICT at all as an umbrella vendor of sorts,
8 it would be a double-edged sword for them. If under this theory
9 that the government has, if they would have reported it to ICT,
10 then that's not the actual person who received the money and
11 that's inaccurate. If they would have reported it to Grassroots
12 Strategy, Grassroots Strategy isn't the company who actually
13 received the check from the Paul Campaign and an audit would
14 have turned that up and it would have been either criminal or
15 civil from the FEC, and so that is why we believe that is
16 inaccurate.

17 We believe that the instructions that we have given
18 are correct and, of course, the mens rea argument that we have
19 already discussed with the court at some length.

20 THE COURT: Thank you.

21 Ms. Sinfelt.

22 MS. SINFELT: Good morning, Your Honor.

23 THE COURT: Good morning.

24 MS. SINFELT: Mr. Benton just has one issue he would
25 like to put on the record concerning Count 5 on page 11. I

1 believe we discussed this once already, and we'll just make a
2 record now that element 1 at the bottom of page 11, that on or
3 about July 21st or 22nd, defendant Benton made a statement, we
4 believe that the Eighth Circuit model instructions would advise
5 to insert the statements, the two statements there that are
6 alleged by the government.

7 THE COURT: Thank you.

8 MS. SINFELT: That's all, Your Honor.

9 THE COURT: We had a discussion about this yesterday
10 off the record in which the court said there's two different
11 ways of proving the violation, and so it's the court's opinion
12 that it can be false or fraudulent and that the government is
13 electing to go with false.

14 MS. SINFELT: Oh, Your Honor, I understand that. I
15 was actually talking about element No. 1.

16 THE COURT: Sorry.

17 MS. SINFELT: Instead of saying made a statement, we
18 would -- the Eighth Circuit model instructions would instead put
19 in the actual alleged statements by the government.

20 THE COURT: And here they are on page 12.

21 MS. SINFELT: I understand, Your Honor. I was saying
22 in the elements themselves.

23 THE COURT: Thank you.

24 MS. SINFELT: Thank you.

25 THE COURT: Good. So I also find with respect to the

1 statements offered by the government pursuant to Rule
2 801(d)(2)(E), that the declarants and the defendants, the
3 government has established were arguably within the conspiracy
4 and the statements were in the course of and during and in
5 furtherance of the conspiracy. Those exhibits that were
6 conditionally admitted are now formally admitted.

7 All right. At 9 o'clock I'll read the instructions.
8 I'll read all of the instructions except the ninth one, and
9 after you give your closing arguments, I'll read those.

10 With respect to the instructions, use them any way you
11 want, put them on the Elmo, ask them to pick up their copies and
12 read along. Do whatever you want with the jury instructions
13 during your closing argument.

14 MR. BINNALL: Is there anything from the court about
15 use of demonstratives in closing?

16 THE COURT: Not knowing what you've got planned, it's
17 kind of hard in the abstract. If you have one of those -- in
18 other jurisdictions it's okay to use a chart that shows how big
19 reasonable doubt is. You can't do that here.

20 MR. BINNALL: We weren't planning on doing that.

21 THE COURT: No, I don't have any other bugaboos.

22 MR. BINNALL: All right.

23 MR. KRAVIS: And just so the court is aware -- and I
24 let defense counsel know about this yesterday evening -- the
25 government has a short PowerPoint to be used during closing.

1 All of the slides are exhibits that have already been admitted
2 in evidence. There isn't anything new created in the
3 PowerPoint. I just want to make sure everyone is aware that as
4 the slides come up, they're all admitted exhibits.

5 THE COURT: That's fine.

6 (Recess at 8:45 a.m., until 9:00 a.m.)

7 (In open court, in the presence of the jury.)

8 THE COURT: Please be seated.

9 Members of the jury, good morning.

10 So, as you recall from yesterday, the evidence is
11 complete in this case. The remaining two portions of the trial
12 are the reading of the jury instructions and the lawyers'
13 closing arguments. On your chair when you arrived in the
14 courtroom was a copy of the final instructions, and so I'm going
15 to read those out loud while you read them silently just like
16 the preliminary instructions.

17 And just like the preliminary instructions, the court
18 reporter doesn't need to take them down but just report any
19 place where I deviate from the written word.

20 So if you would turn with me now to instruction No. 1.

21 (Jury instructions 1 through 8 were read by the
22 court.)

23 THE COURT: Okay. So I'm going to suspend the reading
24 of the instructions. I'll read the final one, No. 9, after the
25 parties make their closing arguments.

1 The closing arguments, as I said, are another
2 important part of the trial. It's that opportunity for the
3 lawyers to attempt to persuade you that their client's position
4 is the one that you should adopt in your deliberations. I've
5 given each side, each party an hour and 15 minutes here. So the
6 government, of course, has the burden of proof, it goes first,
7 the defendants will go next, and then if the government reserves
8 some of its time, it can make what's called a rebuttal argument
9 so that everybody has the opportunity to comment on each other's
10 closing argument.

11 Mr. Kravis, you may make the government's closing
12 argument.

13 MR. KRAVIS: Thank you, Your Honor.

14 Can I use the mic? Is that okay?

15 This is a case about a coverup. That man, Dimitri
16 Kesari, conspired with three other men, John Tate, Kent
17 Sorenson, and that man, Jesse Benton, to cover up payments from
18 the Ron Paul Campaign to Iowa State Senator Kent Sorenson.

19 Those payments were first offered to Senator Sorenson
20 around Halloween 2011 by Mr. Benton as part of the deal to get
21 Senator Sorenson to leave the Bachmann Campaign, endorse Ron
22 Paul and take a job with the Paul Campaign for \$8,000 a month.
23 These men covered up the payments because after Sorenson finally
24 endorsed Ron Paul on the night of December 28, 2011,
25 Representative Bachmann went to the media and told the media

1 that the Paul Campaign had paid Sorenson for the endorsement.
2 And once Representative Bachmann made that allegation, these men
3 knew that the other campaigns, the public, and the media was
4 going to be looking for evidence of campaign payments to
5 Sorenson, and the first place they were going to look was the
6 campaign's FEC reports.

7 So these men decided to hide the payments to Sorenson
8 from the FEC. They hid the payments to Sorenson from the FEC
9 because they did not want the media and the public to know that
10 they had lied when they denied Bachmann's allegation. They hid
11 the payments from the FEC because Sorenson would have gotten in
12 trouble with the Iowa Senate Ethics Commission. They hid the
13 payments from the FEC because they knew that their own
14 candidate, Ron Paul, would not approve of what they had done.

15 Now, from the start, let's be very clear about who's
16 charged with what here. No. 1, no one is charged with the
17 payments to Sorenson themselves standing alone. This is not a
18 bribery case. That is not what this case is about. The
19 payments to Sorenson themselves are not the crime. The crime is
20 covering up the payments.

21 That's what Dimitri Kesari is charged with. He's
22 charged with a conspiracy, causing false records, causing false
23 FEC reports, causing false statements to the FEC. He's also
24 charged with obstruction of justice for trying to tamper with
25 that \$25,000 check that Mr. Kesari gave to Senator Sorenson on

1 the night of December 26, 2011.

2 Now, Mr. Benton is not charged with those crimes in
3 this proceeding. Instead Mr. Benton is charged with lying to
4 the FBI about knowing about the payments during the campaign in
5 order to cover up his role in the conspiracy.

6 Now, that coverup, that coverup of the payments from
7 the campaign to Sorenson played itself out before your very eyes
8 right here in this courtroom in the documents, in the e-mails
9 that you saw. That evidence came in in bits and pieces. We're
10 going to put those pieces together now, and when you put the
11 pieces together, you'll see the coverup. And remember what
12 Mr. Pilger told you at the very beginning of this trial: Follow
13 the money. If you want to see the coverup, follow the money.
14 And the money trail begins right here.

15 These exhibits are all in evidence. You will have a
16 chance to look at them. January 2012 Kent Sorenson sends an
17 e-mail to Dimitri Kesari. This e-mail attaches an invoice. The
18 invoice is from Kent Sorenson's political consulting company,
19 Grassroots Strategy, Inc. The invoice is for consulting
20 services, \$25,000 retainer, \$8,000 payment for January,
21 consulting services. So far so good. But now look at who the
22 invoice is to. ICT, Inc. in Hyattsville, Maryland. What is
23 ICT, Inc.? ICT, Inc. is a video production company called
24 Interactive Communication Technology run by Noel Izon, an
25 independent filmmaker.

1 So what does Kesari do with this invoice from a
2 political consulting company in Iowa for consulting services to
3 ICT? Dimitri Kesari forwards it to his brother, Pavlo Kesari.
4 Here is the invoice again, attached to an e-mail from Dimitri
5 Kesari to Pavlo Kesari. And look at what Dimitri Kesari tells
6 his brother, Pavlo, to do with this invoice.

7 Here is the invoice that needs to be taken care of.
8 Send me an invoice for video services. 33k plus.

9 Pavlo Kesari works in the video production industry.
10 What is going on here? Why is Dimitri Kesari sending an invoice
11 from a political consulting company in Iowa to a video
12 production company asking for an invoice for video services?
13 Pavlo Kesari told you the answer. Pavlo told you that in late
14 December of 2011, early January of 2012, Dimitri comes and
15 visits him at his office. Pavlo tells you this is pretty
16 unusual, Dimitri doesn't usually come to his office and anyway
17 Dimitri is right in the middle of a really big presidential
18 campaign.

19 And when Dimitri Kesari goes to Pavlo Kesari's office,
20 Dimitri asks Pavlo to do a favor for the campaign. Dimitri
21 tells him there's this graphic designer. He's been working for
22 the campaign since 2011 doing banners and posters and things
23 like that. He's been doing good work, but we can't pay him
24 directly because some people on the campaign, they don't really
25 like him. So Dimitri asks Pavlo to pay the graphics designer

1 off the books.

2 Is this true? Is there a graphics designer out here
3 in Iowa who's been making posters and banners for the Paul
4 Campaign who can't get paid directly because people in the
5 campaign don't like him? No. That's not true. That's a lie.

6 Why is Dimitri lying to his brother, Pavlo, about this
7 invoice and what it's for? Dimitri is lying to Pavlo because
8 Dimitri has decided that he's going to use his brother, Pavlo,
9 to pay Kent Sorenson and cover it up. Now, Pavlo, he's not
10 going to do this, but what Pavlo does do is he puts Dimitri
11 Kesari in touch with Mr. Izon, the guy from ICT, Inc. So Pavlo
12 takes the invoice that Dimitri Kesari sends him and he sends an
13 e-mail from Pavlo Kesari to Sonny Izon. This e-mail has some
14 invoices attached to it. The first invoice is an invoice that
15 Pavlo created based on the Grassroots Strategy invoice that
16 Dimitri Kesari sent him, still an invoice from Grassroots
17 Strategy to ICT, Inc., description consulting services. You can
18 see here that Pavlo has broken out the services over the course
19 of the second half of 2011, and Pavlo told you he did that based
20 on the information that Dimitri gave him.

21 Pavlo attached this invoice along with another invoice
22 for something separate, some work that Pavlo's own company did
23 for the campaign that they never got paid for. Pavlo forwards
24 these two invoices to Sonny Izon at ICT.

25 Sonny Izon turns around and sends an e-mail back to

1 Dimitri Kesari. It's this e-mail right here (indicating),
2 attaching another invoice. Now take a look at this invoice, the
3 invoice that comes back to Dimitri Kesari. This is an invoice
4 from Interactive Communication Technology, Inc. It's an invoice
5 to the Ron Paul Campaign, attention: Dimitri Kesari. Now it's
6 an invoice for production services for Kent Sorenson, \$33,000,
7 plus Pavlo Kesari's unpaid bill, plus a commission for ICT.

8 So look what's happened here. We started with an
9 invoice for consulting services from a political consulting
10 company of an Iowa State Senator. It's turned into an invoice
11 for production services from a video production company in
12 Hyattsville, Maryland.

13 What does Kesari do with the invoice? He forwards it
14 on to the campaign's financial staff. He sends the ICT invoice
15 to Fernando Cortes, and he tells Cortes in the e-mail the
16 invoice has been approved by Jesse. Who is Jesse? That man
17 right there (indicating), Jesse Benton.

18 Okay. Now ask yourself this. Why is this happening?
19 Why is Dimitri Kesari lying to his brother about some unpaid
20 graphics designer? Why are all of these fake invoices flying
21 around all of a sudden on e-mail? You know the answer to that
22 question. You heard it from Fernando Cortes.

23 Fernando Cortes testified at this trial. He told you
24 his job on this campaign was to get the bills paid and Fernando
25 Cortes told you how he did that job. He said when an invoice

1 comes in, first he makes sure the invoice is approved by
2 management, Jesse Benton and John Tate. Then Cortes and the
3 staff put together this campaign record. It's an e-mail that
4 Cortes and his staff send to the campaign's financial office, so
5 Lori Pyeatt and Deana Watts in Texas. And in this e-mail Cortes
6 and his staff tell the financial office what the invoice is,
7 who's getting paid, how much, and what it's for. Pyeatt and
8 Watts over in Texas, they use the information on this record, on
9 this e-mail that Cortes and his staff send them to make sure the
10 bill gets paid and to fill out the campaign's FEC reports.

11 Now, here's the key, here's the key to this whole
12 thing. All the way up the line, from Cortes and his staff, all
13 the way up to Pyeatt and Watts, all the way up to the FEC
14 reports, the financial staff is relying on the information
15 provided by the campaign employee who submits the invoice.
16 Cortes looks at the invoice, see what it's for, who's getting
17 paid and how much, and he puts that information into a campaign
18 record that ends up being the record the campaign uses to fill
19 out its FEC forms.

20 And these guys know this. It's their campaign.
21 They're the ones who set it up. They know exactly how all of
22 this works. Cortes told you during this trial, he said everyone
23 on the campaign had a responsibility to make sure the invoices
24 they submitted had a proper explanation of what they were.
25 Those were his exact words on the stand, and it's that system of

1 the campaign staff looking at the invoices, using the
2 information on the invoices to pay and report them. It is that
3 system that Kesari, along with Tate and Benton, used in their
4 scheme to hide the payments to Sorenson.

5 So what happens here? Here is the invoice:
6 Interactive Communication Technology, production services.
7 Cortes looks at this information. He decides that based on that
8 information this is an invoice for an audiovisual expense. He
9 sends his campaign record up the line to Pyeatt and Watts.
10 Interactive Communication Technology gets paid. And a few weeks
11 later the campaign puts out an FEC report with this line in it.
12 It shows the payment to Interactive Communication Technology.

13 Now, the FEC gets this report, and it basically looks
14 fine to them. What did Mr. Hartsock keep saying over and over
15 when he was testifying? Facially sufficient to publish. All of
16 the boxes are filled in. The information is all there. So the
17 FEC goes ahead and they put the report online. This is what the
18 FEC does. It collects information from political campaigns
19 about where the money comes from and how they spend it, and the
20 FEC puts that information out to the public.

21 So this is in the report that the FEC publishes. Is
22 it true? Did the Ron Paul Campaign pay Interactive
23 Communication Technology, Inc. in Hyattsville, Maryland, \$38,125
24 for audiovisual expenses? No. It's not true. It's not even a
25 little bit true. The campaign is not paying ICT this money.

1 They're paying the money to Kent Sorenson. The whole reason
2 these invoices were created, the only reason these invoices were
3 created was to get Kent Sorenson paid. And look where the money
4 goes: \$33,000 into the bank account of Kent Sorenson's company,
5 Grassroots Strategy. This expenditure was not to pay ICT. It
6 was to pay Kent Sorenson.

7 Now look at the purpose of the expenditure,
8 audiovisual expenses. ICT is not doing audiovisual expenses.
9 They're not doing audiovisual work for the Ron Paul Campaign.
10 They're not doing any work for the Ron Paul Campaign. Kent
11 Sorenson is doing hardly anything at all, certainly not doing
12 anything they could call audiovisual expenses. So that part of
13 the report is false, too.

14 And there's something else that's false about this
15 report. ICT is getting some money from the Ron Paul Campaign.
16 Remember what Izon told you. He's collecting a commission on
17 these payments. So ICT is getting some money from the campaign,
18 but they're not getting the money from the campaign for
19 audiovisual expenses. The real purpose of disbursement to ICT,
20 what this line should really say is, commission for helping the
21 campaign hide a payment to a state senator in exchange for his
22 endorsement. It's not on the FEC report. That's false, too.

23 And, by the way, while we're talking about these
24 companies, let's get one thing straight. Grassroots Strategy is
25 not a subcontractor to ICT. As anyone who has ever done any

1 work on their house knows, a contractor and a subcontractor are
2 people who work together to get a job done. That's what the
3 defense's own expert, David Mason, said over and over again.
4 Contractor and subcontractor, vendor and sub vendor means the
5 same thing in the role of political campaigns as everywhere
6 else. Those are people working together to get a job done.

7 Ladies and gentlemen, Kent Sorenson is not working
8 with ICT to get a job done. Kent Sorenson told you he never
9 heard of ICT. He has no idea who these people are. He's never
10 talked to them. He's not doing any work with them. ICT, they
11 never heard of Kent Sorenson. They don't know who he is.
12 They're not doing any work at all. They're not doing anything
13 with Sorenson. They're not doing anything for the campaign.

14 So when Mr. Binnall gets up here and tells you, oh,
15 it's so confusing, how are campaigns supposed to know how to
16 report on their FEC filings, about a contractor who works with a
17 subcontractor and a vendor who works with sub vendor, how does
18 that go in the report, your answer to him is, who cares? That
19 is not what this case is about. These people are not
20 contractors and subcontractors. They are not vendors and sub
21 vendors. They are not working together. They are not working
22 at all. This is a pass-through payment scheme designed to
23 conceal the true recipient and the true purpose of the payments.

24 And, look, there are lots of complicated election
25 laws. Ladies and gentlemen, this ain't one of them. The law

1 says a political campaign has to tell the FEC how it spends its
2 money. You've got to show them who you're paying, what you're
3 paying them for and how much you're paying. And, ladies and
4 gentlemen, the law does not say that you can go out and lie to
5 the FEC just because you were able to dupe some company in
6 Hyattsville into giving you a fake invoice.

7 How did this happen? How did the Ron Paul Campaign
8 end up filing a false FEC report? You now know the answer.
9 Dimitri Kesari made it happen. Dimitri Kesari knew that when he
10 fed those fake ICT invoices into the financial machinery of the
11 campaign, this false FEC report would come out the other end.
12 Garbage in, garbage out, fake invoice goes in, false report
13 comes out. That's what Dimitri Kesari knew would happen and
14 that's what he wanted to happen. That was the whole point of
15 the ICT invoices. That's the whole reason that Dimitri Kesari
16 is taking time in the middle of a busy presidential campaign to
17 cook up fake invoices from a video production company in
18 Hyattsville is because he knows and he intends that when those
19 invoices go into the campaign's financial machinery, this is
20 what's going to come out the other end because he knows the
21 campaign staff is relying on him to provide the information
22 about what the invoice is and what it's for.

23 By the way, before we leave this first payment, before
24 Dimitri Kesari forwarded the invoice to Cortes, he did something
25 else. He gets permission from Benton to pay Kent Sorenson.

1 These are two e-mails from February of 2012, and before you look
2 at them, I just want to remind you what's happening during this
3 time. This campaign has just come off the national scandal,
4 Kent Sorenson dramatically endorsing Ron Paul at the Iowa
5 Fairgrounds, Michelle Bachmann going to the media with
6 allegations about Sorenson being paid. Sorenson himself on
7 national TV denying those allegations. The campaign putting out
8 press releases about all of this. All of that like just
9 happened, and now look at what these people say on February 7,
10 2012. Kesari writes John Tate, "Did Jesse get Kent paid?" Tate
11 writes back, "No idea, ask him." So he does. Kesari writes
12 Benton, "Did you get Kent paid or should I submit the payment
13 and pay him?" Benton writes, "Yo handle," probably means you
14 handle.

15 Now look at Benton's response and first look at what
16 Benton does not say to Kesari. Benton does not say, wait, why
17 are we paying Kent Sorenson? Didn't I just tell the press he
18 wasn't getting paid by our campaign? Benton does not say, if we
19 pay Kent Sorenson, won't our own campaign FEC reports expose us
20 as liars? Benton does not ask Kesari these questions because he
21 already knows the answers.

22 By February 7, 2012, Benton already knows the campaign
23 is going to pay Sorenson and it's not going to show up on the
24 FEC reports because they're going to hide the payments through a
25 third party. That is why Benton doesn't say anything to Kesari

1 except you handle it, and that's what Kesari does.

2 He submits another invoice in February, another
3 invoice for the month of March. Then we get to April, and this
4 time, this time Kesari actually forwards the invoice to Benton.
5 This is the e-mail from IZON to Kesari attaching an invoice for
6 the month of April. Attached to it is another one of these
7 bogus ICT invoices.

8 Kesari then takes that bogus invoice, forwards it to
9 Benton, "Kent's bill. Pay?" Look how Benton responds. Less
10 than an hour later, Benton responds, "Yes - last time."

11 Once again, take a look at what Benton doesn't say.
12 He doesn't say, why are we paying Kent Sorenson? He doesn't
13 say, if we pay Kent Sorenson, won't our own FEC reports expose
14 us as liars? Benton also doesn't say, by the way, what is ICT?
15 Benton does not ask Kesari those questions because he already
16 knows the answers.

17 By May 2, 2012, Benton knows exactly what this is. He
18 knows the campaign is paying Sorenson and they're doing it
19 through a third party. When Benton responds, it takes him less
20 than an hour to respond to Kesari, and you heard during this
21 trial what a busy man Jesse Benton is, all of the e-mails he
22 gets every day, all the phone calls, all of the travel with the
23 campaign. Out of that busy, busy schedule, Benton it takes him
24 less than an hour to write back to Kesari, not asking any
25 questions, approving the invoice.

1 Benton says something else in this e-mail, too. Look,
2 "Yes - last time." Why does Benton write last time? Benton
3 writes last time because he knew about all the other times
4 because Benton knew that Sorenson was getting paid by the
5 campaign since January. And every time Dimitri Kesari sent an
6 invoice to Fernando Cortes, he wrote, approved by Jesse,
7 approved by Jesse, approved by Jesse. And Jesse knew about
8 these invoices. Jesse Benton knew of the invoices, he approved
9 them, and that's why on May 2, 2012, Benton writes back,
10 "Yes - last time" because he knows about all of the other times.

11 Kesari does it again in May. He does it again in
12 June, and with this payment, the June payment, this time Tate
13 follows up. So this time Kesari gets the invoice, the ICT
14 invoice from Fernando Cortes. He sends the invoice along -- he
15 gets the invoice from Izon. He sends the invoice along to
16 Cortes, and this time Cortes asks John Tate himself for approval
17 of the invoice, and Tate has a momentary lapse here. Tate
18 forgets for a moment that ICT is the company they're using to
19 hide the payments to Sorenson. So Tate writes to Cortes, I'll
20 find out what it is. And then Tate forwards the invoice, the
21 June ICT invoice to Kesari, and he asks, what is this, what is
22 it for, who is it, why do we keep paying it? Kesari writes
23 right back. Take a look at his response. Kesari writes, "This
24 the last payment for Kent Sorenson. The deal Jesse agreed to
25 with Kent."

1 Kesari writes in another response a few seconds later
2 saying, "Is was for 6 months," probably meaning it was for six
3 months.

4 And, once again, one last time look at what John Tate
5 does not say back to Kesari. John Tate does not say what deal
6 that Jesse agreed to with Kent? We're not supposed to be paying
7 Kent Sorenson.

8 John Tate does not write back, if we pay Sorenson,
9 won't our own FEC reports expose us as liars?

10 Tate does not say, by the way, what is Interactive
11 Communication Technology and what does it have to do with Kent
12 Sorenson?

13 John Tate does not ask Dimitri Kesari these questions
14 because he already knows the answers. Because by June of 2012,
15 Tate knows that the campaign is paying Sorenson through a third
16 party and that's how they're hiding the payments.

17 As you go through the documents in the case you'll see
18 the same pattern every time. These invoices, these Grassroots
19 Strategy invoices for consulting services to ICT, the ICT
20 invoices to the campaign for production services. These
21 invoices, ladies and gentlemen, these invoices are about as
22 legit as a \$3 bill. Grassroots Strategy is not doing any
23 political consulting for ICT. ICT is not doing any production
24 services work for the Ron Paul Campaign. Nobody is doing
25 anything here. All they're doing is passing around a piece of

1 paper, people who don't even know each other, and that's the
2 coverup, that's the scheme, fake invoice from Grassroots
3 Strategy to ICT for consulting, fake invoice from ICT to the
4 campaign for production services, payment from the campaign to
5 ICT for work that was never done, payment from ICT to Grassroots
6 Strategy for work that was never done. And at the end, the end
7 product, a false FEC report listing the payments to Sorenson as
8 a payment to ICT for audiovisual expenses.

9 That's the crime. That's the coverup.

10 Why did they do it? Dimitri Kesari at this time was
11 the deputy campaign manager of a major presidential campaign.
12 Jesse Benton and John Tate were his bosses. They were running
13 the campaign. Why are these guys messing around with fake
14 invoices from a video production company in Hyattsville,
15 Maryland, that is doing no work for their own campaign? The
16 answer is painfully obvious. They did it because they wanted
17 Sorenson's endorsement, and at the end of the day, they thought
18 that this was what they had to do to get it and to keep it. And
19 you can see that in their own e-mails from 2011.

20 Now, we're not going to read all of those e-mails
21 together. We've read our fair share of the e-mails together,
22 and you'll have a chance to review them when you deliberate; but
23 when you go back and look at them, you're going to see two
24 things. The first is that Kesari and Benton and Tate wanted
25 Sorenson's endorsement.

1 It begins when Benton e-mails Sorenson around
2 Halloween of 2011 offering him a job at \$8,000 if he'll abandon
3 Bachmann and endorse Ron Paul and come to work for the campaign.
4 And as October turns to November and as November turns to
5 December, as the caucuses get closer and closer, these guys
6 still want Sorenson, and they want him more, not less.

7 But there's something else about those 2011 e-mails
8 you'll notice, and that is that this little project of the Ron
9 Paul Campaign, this project of Kent Sorenson had a very definite
10 structure to it. Every step of the way Benton and Tate told
11 Kesari what to do and how to do it and Kesari happily followed
12 their orders and reported back. You'll see the e-mails, make
13 him an offer in person not in writing. Talk to Jesse about what
14 you have to say. We need to be careful. Don't firm anything up
15 yet.

16 You'll see the e-mails back from Kesari. I talked to
17 Kent last night. I had dinner with Sorenson and his wife last
18 night. I talked to Kent again. He's thinking about his future.
19 I'm going to talk to him when I land. He needs a little hand
20 holding. I'll make it happen.

21 Every step of the way Benton and Tate are telling
22 Kesari what to do and Kesari is reporting back to them. And the
23 reason that's important is because that structure from 2011
24 carries over into 2012. Just like in 2011, Benton and Tate are
25 telling Kesari what to do with Sorenson and Kesari's reporting

1 back about the negotiations, by 2012 Benton and Tate are telling
2 Kesari what to do to get Sorenson paid and hide it, and Kesari
3 is doing it and reporting back. It's the same structure in 2011
4 as 2012.

5 So we get to Christmas Day 2011, a major holiday in
6 the middle of a busy presidential campaign, time to sit back,
7 spend a few hours with your family, reflect on what's happened
8 that year. And what are these guys doing? Kesari, Tate and
9 Benton are spending Christmas Day editing a press release
10 announcing Sorenson's endorsement.

11 And then we get to December 26, 2011. At this point
12 we know from the campaign e-mails that the campaign has created,
13 has written a draft press release announcing that Sorenson is
14 endorsing Ron Paul, a few days before Jesse Benton writes an
15 e-mail saying that they can, quote, stick a fork in Michelle
16 Bachmann because Sorenson is about to endorse Ron Paul.

17 Why would Benton say this? Because he knows this is a
18 really big deal. He knows that when the Iowa Chair of another
19 major candidate's campaign comes out and endorses his guy the
20 week before the caucus, that is big, that is huge. Benton knows
21 that that endorsement is going to be a body blow to Michelle
22 Bachmann's campaign, and he knows that his guy is going to get
23 tons of free publicity out of it, over and over again the media
24 announcing Sorenson's endorsement of Ron Paul.

25 But as Sorenson testified, on December 26, 2011, he's

1 not quite ready to make a switch. That night Sorenson, his
2 wife, and Dimitri Kesari have dinner at a restaurant, Claxton's
3 Barbecue in Altoona. At the dinner Kesari and Sorenson talk
4 about politics. They talk about money. Kesari e-mails back to
5 the campaign, working on it, eating now. Sorenson is not ready
6 to do the deal. At the end of the meal, he gets, up goes to the
7 bathroom, went back to the bar, and then his wife gives him this
8 (indicating), a \$25,000 check from Kesari's jewelry company,
9 Designer Goldsmiths, Inc., to Kent Sorenson's political
10 consulting company, Grassroots Strategy, for \$25,000 signed by
11 Dimitri Kesari.

12 Ladies and gentlemen, this check tells you everything
13 you need to know about how badly Dimitri Kesari wanted this
14 endorsement. Dimitri Kesari was so desperate to get Sorenson's
15 endorsement that he is willing to write a check from his own
16 business to a sitting Iowa senator for an endorsement for the
17 candidate that he is working for who is running for President.

18 Then comes December 27th. By December 27th Kesari has
19 to tell his bosses that Sorenson is not on board. He writes an
20 e-mail saying that Kent is getting cold feet. And then Benton
21 starts firing off some angry replies. And those angry replies,
22 as they're angry and frustrated with Sorenson, just like the
23 e-mails from November and December, show that they still want
24 Sorenson, even after Sorenson has blown every deadline the
25 campaign set for him, crossed every line that the campaign has

1 drawn, they still want him. I'm just going to show you one
2 e-mail from that day. This is after Kesari tells Benton that
3 Sorenson is getting cold feet. Benton responds, "I am tempted
4 to say this is hard ball tie." Should be time probably.
5 "Either he honors his commitment or we have to expose him as the
6 money-grubbing shakedown artist that he is."

7 What is Benton saying in this e-mail? Benton is
8 saying in this e-mail that even as late as December 27th, even
9 knowing that Mr. Sorenson is not ready to commit, Benton is
10 saying, either he honors his commitment, either he endorses my
11 guy, Ron Paul, or I'm going to blow the whole thing up in the
12 media. That's how bad these guys still want Sorenson.

13 And then we get to December 28th, and on the night of
14 December 28th, Dimitri Kesari, John Tate, and Jesse Benton
15 finally get their prize. Sorenson shows up at the Iowa
16 Fairgrounds at a Ron Paul event. Sorenson shakes Benton's hand.
17 Benton says to him, you're bleeding for us, we'll take care of
18 you. Sorenson gets on the stage and endorses Ron Paul, shakes
19 some more hands with the media. Sorenson told you that night he
20 is absolutely convinced that he is getting paid by the Paul
21 Campaign because that was the deal all along.

22 But now there's a problem, and this is where things
23 start to get a little hairy for Kesari, Benton, and Tate. The
24 problem is that Sorenson couldn't keep his mouth shut. In the
25 two days between the dinner at Claxton's Barbecue and the

1 endorsement of Ron Paul, Sorenson has told people, including
2 people who work for the Bachmann Campaign, about this check
3 right here (indicating), and Kesari knows that. So Kesari tells
4 Sorenson, don't cash the check, too many people know about it,
5 we'll pay you by wire.

6 And that was Sorenson's testimony during this trial
7 right here in this courtroom, and the e-mails back him up. The
8 e-mails back up his testimony. Take a look at this e-mail.
9 This is an e-mail from Dimitri Kesari to Fernando Cortes, Jesse
10 Benton, and John Tate the night of December 28, 2011, the night
11 of the endorsement. Kesari writes, "I will need a wire for
12 25,000 first thing in the morning."

13 Twenty-five thousand, where have you seen that number
14 before? It's the same number on this check (indicating).
15 Ladies and gentlemen, this letter from Dimitri Kesari is an
16 e-mail setting up a payment to Kent Sorenson by wire so Sorenson
17 won't have to cash the check.

18 Now, look, Kent Sorenson is not on that e-mail. Kent
19 Sorenson has no reason to know that that e-mail exists, and yet
20 that e-mail backs up Sorenson's testimony. He sat here and told
21 you on the night of the 28th, Kesari says to him, don't cash the
22 check, I'll get you a wire. And here's the e-mail right here
23 that night of Kesari saying we need a wire.

24 But then the problem gets worse. It gets a lot worse.
25 It gets worse because Bachmann comes out and tells the media

1 that the campaign paid Sorenson to switch. Okay. So now the
2 problem is not just the check. Now the problem is that the Paul
3 Campaign is going to have to say something about Bachmann's
4 allegation. And let's be honest, there's really only one thing
5 they can say. They have to deny it because they know, the Paul
6 Campaign -- Dimitri Kesari, Jesse Benton, and John Tate, they
7 know that if they come out and tell the truth that Jesse Benton
8 offered Kent Sorenson \$8,000 a month back on Halloween and that
9 they have every intention of paying him \$8,000 a month, plus
10 this little \$25,000 signing bonus, if they come out and say that
11 in the media, the endorsement will be worthless, Sorenson will
12 be in hot water with the Iowa Senate Ethics Committee, and their
13 boss, their candidate, Ron Paul, is going to be really mad at
14 them.

15 You heard Ron Paul testify during this trial. He told
16 you he doesn't think much of political endorsements and he
17 thinks even less of paying money for a political endorsement.
18 You may remember I asked him, I said, did anyone on your staff
19 ever ask you for permission to pay Sorenson for his endorsement?
20 Ron Paul couldn't even answer that question. He was
21 flabbergasted by it. He was shocked. He said he couldn't even
22 conceive that he would think of doing such a thing. And these
23 guys know this. They know how their candidate feels about
24 political endorsements, about paying money for political
25 endorsements. How many times do you think Jesse Benton has

1 heard that story about Nolan Ryan? They know exactly what their
2 candidate's reaction is going to be if he finds out what they
3 have done.

4 And this, ladies and gentlemen, this is where they
5 cross the line. Now we're not talking anymore about do we pay
6 Sorenson by check or by wire. We're not talking anymore about
7 do we pay Sorenson's directly or do we pay his company. Now
8 we're talking about a coverup. Now we're talking about hiding
9 the payments, including hiding the payments on the FEC reports.
10 The coverup starts that very night.

11 This is an e-mail from Benton to a reporter asking for
12 a response to the Bachmann charges. "We are not paying Senator
13 Sorenson."

14 This continues the next day. Benton sends a similar
15 e-mail to another reporter. Is Sorenson getting a salary from
16 the Paul Campaign?

17 No.

18 Will Sorenson get a salary from the Paul Campaign?

19 No, he will not.

20 Sorenson plays his part, too. He goes on national
21 television, goes on CNN, goes on Fox News with Megyn Kelly.
22 This is now a national political scandal. This is now one
23 member of the United States House of Representatives accusing a
24 campaign of another member of the United States House of
25 Representatives of paying a state senator for a political

1 endorsement.

2 And Kent Sorenson plays his part. He goes on CNN,
3 goes on Fox News. No, I was never offered any money, I would
4 never take any money. And then he goes a step further. He says
5 the FEC reports will show that what he is saying is true.
6 Sorenson says that on national television and he says it again
7 in a statement put out through the campaign, a statement
8 approved by Jesse Benton, and that statement says this: Deny
9 the allegations, I was never offered money from the campaign or
10 anyone associated with them.

11 Well, that's false. Benton offered him the payment
12 starting on Halloween.

13 And certainly would never accept any. Financial
14 reports come out in just days which will prove what I'm saying
15 is true.

16 These are lies. Why is Sorenson telling these lies?
17 Because that's what Dimitri Kesari and Jesse Benton told him to
18 do. Because by December 29, 2011, these guys know that the FEC
19 reports -- the FEC reports are not going to be a liability for
20 them. The FEC reports are going to be a weapon that they use in
21 their statements. The FEC reports are going to be a weapon for
22 them because they know they are going to pay Sorenson, but Kent
23 Sorenson's name will never, never show up on an FEC report from
24 the Ron Paul Campaign because they are not going to pay Sorenson
25 directly. They're going to hide it. They're going to cover it

1 up, and the coverup of the money starts that very night.

2 Take a look at what happens to Dimitri Kesari's
3 \$25,000 wire. On the 29th Cortes e-mails the group, Benton,
4 Kesari and Tate, and he says, look, guys, if you're going to get
5 this wire out, we've got to do it now.

6 Look at Benton's response, 25K wire, hold for a couple
7 of days. Tate responds, yep, we're going to. Kesari responds,
8 we are holding until after the filing. And just for good
9 measure, Kesari writes, I don't want it showing up on this
10 quarter filing.

11 Why are they sending these e-mails, this wire that
12 Kesari needed at the last minute first thing in the morning just
13 last night, now we're holding it for a couple of days, now we
14 don't want it showing up on filings? Why is that? It's because
15 they know they now need a little time. They need a little time
16 to find their ICT. They need a little time to find their
17 pass-through company to hide the payments, and they need a
18 little time to put some distance on the FEC report. And just
19 for good measure, John Tate to Fernando Cortes, get rid of the
20 evidence, wipe it off the books.

21 Sorenson testified that just a few days later after
22 all of this happens, Dimitri Kesari comes to him with the scheme
23 to pay him through ICT.

24 That's a crime and that's the motive, but it's not the
25 end of the story. Fast forward to August 2013. Kent Sorenson

1 is under investigation from the Iowa Senate Ethics Committee.
2 The FBI is investigating the reports of payments from the
3 campaign to Sorenson. There are news stories in the media about
4 this. Sorenson told you he's talking to his friend, Dimitri
5 Kesari, about the investigation all the time. And in August of
6 2013, Kent Sorenson drafts a press release, a press release
7 about that check right there. In the press release Kent
8 Sorenson admits that he got the check from a Ron Paul staffer in
9 December of 2011. Kent Sorenson forwards that draft press
10 release to Dimitri Kesari. And when Dimitri Kesari gets that
11 draft press release, he freaks out. He freaks out because he
12 cannot have the world knowing about this check.

13 So what does Kesari do? He flies to Omaha, Nebraska,
14 rents a car and drives back to Des Moines, tells Sorenson, I'm
15 going through Omaha so no one will see me in Des Moines. When
16 Kesari gets to Sorenson's house, he tells Sorenson to lift up
17 his shirt to make sure he's not wearing a wire. Remember when
18 Mr. Sorenson described this moment? He said, when Kesari said
19 that to me, I laughed, I thought it was joke. But then I looked
20 at his face and I realized he's not joking, he's serious, he's
21 really worried about something. So Sorenson did. He lifted up
22 his shirt showing he's not wearing a wire.

23 And after that Dimitri Kesari asks Kent Sorenson to
24 give him back this \$25,000 check. Sorenson says no. Then
25 Dimitri Kesari asks Sorenson to alter the check, to doctor it to

1 write loan in the memo line so it would seem like a loan and not
2 what it really was, a payment to get Sorenson's endorsement.

3 Why does Dimitri Kesari do this? He's doing this
4 because he knows that this check right here (indicating), this
5 check is powerful physical evidence that connects him to a
6 crime. This check is direct evidence that Dimitri Kesari was
7 involved in a scheme to pay Kent Sorenson from the campaign off
8 the books, the Designer Goldsmiths check signed by Dimitri
9 Kesari.

10 Now ask yourself this. Are these the actions of an
11 innocent man? Are these the actions of a person who thinks that
12 what he is doing is legal? Does a person who thinks he's done
13 nothing wrong fly to Omaha, Nebraska, and rent a car so he won't
14 be seen in Des Moines, ask his friend to lift up his shirt to
15 make sure he's not wearing a wire, and then try to tamper with
16 physical evidence in an ongoing criminal investigation? No.
17 That is not what innocent people do. You know who does stuff
18 like that? Guilty people. You know why they do it? Because
19 they're guilty and because they know they're guilty and because
20 they're trying to cover up the evidence of their guilt.

21 But that's not the end of Kesari's little coverup
22 scheme. You heard that in the summer of 2013, Kesari approaches
23 Sorenson about running for the United States Senate. And when
24 Kent Sorenson testified about his little U.S. Senate run,
25 Sorenson laughed. He said, this is a joke. I'm under

1 investigation here about payments from the campaign. There's no
2 way I'm getting elected to the United States Senate. And
3 Dimitri Kesari, he knows that. He's an experienced political
4 operative. He knows that Sorenson has about as much chance of
5 winning the Iowa Senate seat as I do.

6 So why is Dimitri Kesari telling Kent Sorenson to run
7 for the Iowa -- run for the United States Senate? It's because
8 Dimitri Kesari knows that if Sorenson runs for the U.S. Senate,
9 the Iowa Senate Ethics investigation into the payments from the
10 campaign to Sorenson goes poof and nobody is asking any
11 questions of Sorenson anymore about those payments through ICT.
12 And that's exactly what Dimitri Kesari wants.

13 And to see what Dimitri Kesari wants, all you have to
14 do is look at the text message from Dimitri Kesari's phone sent
15 to Jesse Benton on September 19, 2013. One more time I'm going
16 to ask you to take a look at what Kesari does not say. Kesari
17 does not say, good news, KS running for U.S. Senate. Kesari
18 does not say, hey, Jess, can you help Kent Sorenson raise money
19 for his U.S. Senate run?

20 "I think I have KS ready to resign." That's the
21 message that Kesari sends to Benton. Kesari didn't give a fake
22 about who gets elected to United States Senate out here in Iowa.
23 What Kesari wants, what Kesari wants is the resignation.

24 Now, this brings us to the last chapter in our story
25 to tell, the Benton theory. July 21, 2014, Jesse Benton comes

1 out here to Des Moines, comes out here to this building to do an
2 interview with the FBI about this investigation before he
3 testifies to the grand jury.

4 FBI Special Agent LoStracco told you all about that
5 interview. She told you Benton had a lawyer. Benton was
6 advised from the beginning the interview was voluntary, he could
7 stop at any time. Benton was told he could take breaks, he
8 could talk to his lawyer. Benton was shown documents to refresh
9 his recollection. He was shown this document, the e-mail from
10 February 7, 2012, instructing Dimitri Kesari to handle paying
11 Kent Sorenson. Mr. Benton was shown this e-mail from May 2,
12 2012, the e-mail where he approves the payment of the ICT
13 invoice, "Pay Kent?" Mr. Benton, "Yes - last time."

14 Mr. Benton was given these documents. He was given an
15 opportunity to review them. He was given an opportunity to
16 discuss them with his lawyer. Jesse Benton during that
17 interview never said he was confused, never said he didn't
18 understand the questions. He had two days to think about the
19 documents in front of him and what the questions were. And in
20 that two-day interview Jesse Benton was asked about whether he
21 knew about the payments from the campaign to Sorenson at the
22 time of the campaign, and Benton said, no, he did not know about
23 the payments while they were happening. Benton said, I'm not
24 splitting hairs, didn't know about payments to Sorenson directly
25 or through a third party. Benton said, I couldn't just lie to

1 the media, it would be on an FEC report. Benton's words to the
2 FBI. Those words were a lie. They were a lie that Jesse Benton
3 told the FBI over and over and over again over two days.

4 Ladies and gentlemen, of course, Benton knew about the
5 payments. Benton is the one who first offered Sorenson a salary
6 to join the Paul Campaign back on Halloween of 2011. Remember
7 those Grassroots Strategy invoices we looked at a moment ago?
8 Do you remember how much they were paying him? \$8,000 a month.
9 Who first offered Sorenson \$8,000 a month? That man
10 (indicating), Jesse Benton.

11 Benton was part of the plan to deny the payments. You
12 can see him saying to the media he's denying the payments and
13 then turning around and telling Kesari to go ahead and get Kent
14 paid, turning around and approving the invoices. Benton knew
15 about the scheme. Those e-mails that the FBI showed him prove
16 that he knew about the scheme when it was happening.

17 And, look, it's not like Jesse Benton didn't remember
18 all of this. It's not like he sat down in the interview and
19 said, I'm sorry, Kent who? Which state senator are we talking
20 about? Benton told the FBI he remembered the e-mails about the
21 \$25,000 wire and what they were for. He told the FBI he
22 remembered about his statements to the media. He remembered
23 about the issue of the FEC report coming up. Of course, he
24 remembered this. He was caught in the middle of a national
25 political scandal. And just in case any of this has slipped his

1 mind, his colleague, Fernando Cortes, refreshed his recollection
2 back in 2013. Fernando Cortes sent him an e-mail August of
3 2013: I've seen these stories about the payments. Here are the
4 invoices. He shows him -- Cortes forwards him the ICT invoices
5 11 months before the FBI interview. You think Benton doesn't
6 remember this when he sits down with Special Agent LoStracco?
7 It's ridiculous. Of course, he remembers it.

8 So why does he lie in the interview? He lies because
9 he knows that he's mixed up in something bad. He lies because
10 he knows that he's mixed up in something serious, and this is
11 his way to try and get out of it.

12 All right. That's what they did. That's why they did
13 it. That's how they tried to cover it up.

14 Let's talk for a minute about the charges. Let's talk
15 about Mr. Kesari's charges first. Count 1 charges Mr. Kesari
16 with conspiracy. A conspiracy is an agreement to commit a
17 crime, and here the agreement is to commit a crime to cover up
18 the payments to the FEC. And you can see the agreement. You
19 can see the agreement among Kesari, Sorenson, Benton and Tate in
20 the concerted action, the way they worked together in 2012 to
21 make the scheme happen. You can see Kesari and Sorenson talking
22 about the fake invoices, Sorenson sending to Kesari the bogus
23 Grassroots Strategy invoices, Kesari going out and getting the
24 bogus ICT invoices, Benton and Tate approving the bogus invoices
25 to make sure they're paid without any questions being asked.

1 All of these people are working together to commit the crime,
2 and that shows you the conspiracy.

3 Count 2 is the crime of causing false records. This
4 crime is exactly what it sounds like. To be guilty of causing
5 false records, you have to knowingly cause a false entry in a
6 record with the intent to impede the work of the FEC. Here
7 Dimitri Kesari caused false records by going out and getting
8 those bogus ICT invoices and submitting them to the campaign's
9 financial staff knowing and intending exactly what was going on
10 would come off the other side.

11 When he submitted those fake ICT invoices to Cortes,
12 Kesari knew that all kinds of false records are going to come
13 out the other end, false FEC reports to be sure, but also the
14 campaign records, the e-mails that Cortes and the staff sent to
15 Pyeatt and Watts, that spreadsheet that you saw that reports the
16 payment as a payment to Interactive Communication Technology for
17 audiovisual expenses. These are all false records. They all
18 have the same false statement in them. That is, they're listing
19 the payments to Sorenson as payments to ICT, and they're listing
20 the purpose of the payment as audiovisual expenses. It's the
21 same falsehood over and over again in the records, and Dimitri
22 Kesari put it there.

23 Count 3 is causing a false FEC report. We talked
24 about this a little bit ago. This might actually be the
25 simplest charge out there. The law says a political campaign

1 has to tell the FEC where is your money going, who are you
2 spending money -- who are you giving money to, how much are you
3 giving them and what is the purpose of the expenditure.
4 To commit this crime, you have to cause the campaign to make
5 false reports to the FEC about those expenditures and you have
6 to do it knowingly and willfully. That is, you know what you're
7 doing and you know that what you're doing is illegal. Here
8 Kesari committed the crime when he caused the campaign to
9 falsely report those payments to the FEC. He submitted those
10 ICT invoices knowing that what was going to come out was a false
11 report about where the money was going and what its purpose was
12 and he did it knowing that it was a crime. Garbage in, garbage
13 out; fake invoice in, false report out over and over and over
14 again. That's the crime.

15 The remaining counts are about the lies.

16 Count 4 is false statements to the FEC. This means
17 causing the campaign to file a report with the FEC that conceals
18 or covers up something that's material or important to the FEC,
19 and you have to do it using a trick, scheme or device. Here
20 Kesari committed the crime by using a scheme, the fake ICT
21 invoices that we just walked through. And he used that scheme
22 to conceal a fact from the FEC, the fact that the true recipient
23 of that money was not ICT; it was Kent Sorenson, and the money
24 was not paid for audiovisual expenses.

25 Count 5 is for Benton's false statements to the FBI.

1 The charge is that Benton willfully said something false to the
2 FBI on a matter that was material or important to their
3 investigation, and that is exactly what Benton did when he told
4 Special Agent LoStracco that he was not aware of the payments to
5 Sorenson during the campaign, the very thing that Special Agent
6 LoStracco was there to investigate.

7 The last count, Count 6, is obstruction of justice.
8 Obstruction of justice means that Kesari knowingly tried to
9 corruptly persuade another person not to give law enforcement
10 information related to a possible crime. Dimitri Kesari
11 committed that crime when he tried to convince Kent Sorenson to
12 give him back this check or alter this check knowing that this
13 check was an important piece of evidence in an ongoing federal
14 investigation into the campaign payments.

15 That's what you've heard from the government. In a
16 minute, I'm going to sit down and the defense lawyers are going
17 to get up, and they're going to have a chance to make their
18 arguments, and then Mr. Pilger is going to talk to you one more
19 time before your deliberations. Before I sit down, I just want
20 to take a minute to tell you what you might hear from the
21 defense lawyers and why it's completely wrong. Mr. Binnall may
22 stand up here and tell you Mr. Kesari did not think he was
23 breaking the law, these campaign regulations are so complicated
24 and Dimitri Kesari just didn't know that what he was doing was
25 against the law. That is not correct. That is not what

1 happened here.

2 And as you're listening to that argument, I want to
3 keep this question, I want you to keep this question in mind.
4 If Dimitri Kesari thought he was not breaking the law, why is he
5 going to such great lengths to hide what he's doing? If Dimitri
6 Kesari thought he was not breaking the law, why is he lying to
7 his brother, Pavlo, about this unpaid graphics designer who's
8 unpopular in the campaign? If Dimitri Kesari thought he was not
9 breaking the law, why is he sending his brother an invoice from
10 an Iowa State Senator for consulting services and asking him to
11 turn it into an invoice for video services from a video
12 production company? Why is he using a film production company
13 in Hyattsville, Maryland, that never did a lick of work for the
14 Ron Paul Campaign to funnel the payments to Sorenson? Why is
15 Kesari going to Sorenson's house making him lift up his shirt to
16 check for a wire and demanding he give him evidence back? Why
17 is he trying to cook up some fake U.S. Senate run so he can get
18 Sorenson to resign from the senate? Are these the actions of a
19 person who thinks that what they're doing is okay? No, no.
20 They're the actions of a person who knows he's breaking the law
21 and was trying to cover it up.

22 Mr. Howard may stand up here and tell you that
23 Mr. Benton did not remember any of this. He may tell you about
24 what a busy man Jesse Benton was, all of those e-mails, all of
25 those phone calls, all of those trips. Mr. Howard may tell you

1 Mr. Benton told the FBI he wasn't aware of those payments
2 because they just slipped his mind. Ladies and gentlemen,
3 failure of memory?

4 Remember what Ms. Sinfelt asked you at the very
5 beginning of the case in opening statement, she asked you how
6 many of you remember how much you paid in taxes two years ago.
7 Well, that analogy is not quite right because it's not like
8 Benton is being prosecuted for falsely stating the amount of the
9 payments to Sorenson. It's really more like what if someone
10 asks you, do you remember whether you paid the IRS two years
11 ago? But maybe you don't. Maybe you think, well, I'm a
12 law-abiding person, but, you know, I don't really remember
13 whether I paid the IRS two years ago. Okay, fair enough.

14 Now, how about a special agent with the Federal Bureau
15 of Investigation sits down with you and your lawyer, puts the
16 documents down in front of you and gives you two days to look at
17 them and talk about them. Now how about at the time you filed
18 the tax return, United States Representative Michelle Bachmann
19 came out and told the media that your tax returns were false.
20 Now, how about, just for good measure, a year later a colleague
21 e-mails you and says, hey, look, here's the false tax returns
22 that the media is talking about, you might want to take a look
23 at these. Do you think you would remember then? Of course, you
24 would. Of course, you would. I don't care how fancy you are,
25 how important your job is, how many e-mails you get in a day,

1 when something like this happens to you, when you get caught up
2 in the middle of a national political scandal, you remember.
3 And when Jesse Benton told the FBI that he was not aware of
4 those payments during the campaign, that was not a failure of
5 memory, that was a lie.

6 Now, ladies and gentlemen, the government has proved
7 to you that Dimitri Kesari, along with his co-conspirators,
8 covered up these payments to Senator Sorenson using documents,
9 the documents we looked at a moment ago, the e-mails, the
10 invoices, the campaign records. But it wasn't just documents
11 they used. They used people. One of the people they used was
12 Ron Paul, the candidate himself, and you heard him testify.
13 When Ron Paul testified he told you, he was pretty upset about
14 his family getting dragged into the middle of this federal
15 criminal trial. You know what? He should be. This campaign
16 was his family business. This campaign was his family, and
17 Kesari, Benton and Tate used his family, his family business to
18 commit a federal crime.

19 But Ron Paul wasn't the only one. Fernando Cortes,
20 Noel Izon, Lori Pyeatt -- Lori Pyeatt whose name now forever
21 appears on false FEC reports -- Deana Watts, Pavlo Kesari,
22 Dimitri Kesari's own brother. Benton, Tate and Kesari
23 manipulated people who trusted them. They did it because they
24 wanted to win. They thought that's what they had to do to win.
25 They knew it was wrong, and because they knew it was wrong, they

1 covered it up. False invoices, tampering with evidence, lying
2 to the FEC, lying to the FBI. The lies stop here.

3 The evidence you have seen and heard in this courtroom
4 during this trial points to one conclusion, and that is that
5 Dimitri Kesari caused that campaign to file false reports with
6 the FEC and Jesse Benton lied to the FBI to cover up what he
7 knew about it and what he did to make it happen. And because
8 that is what the evidence has shown you, the government asks
9 that you find these men guilty of all of the charges against
10 them.

11 Thank you.

12 THE COURT: Okay. We'll take our mid-morning recess,
13 and we'll come and get you in 20 minutes.

14 See you then.

15 (Recess at 10:33 a.m., until 10:55 a.m.)

16 THE COURT: Please be seated.

17 Mr. Binnall, you may make Mr. Kesari's closing
18 argument.

19 MR. BINNALL: Thank you, Your Honor. I forgot to put
20 on the lavalier earlier. I believe that's probably best.

21 Thanks.

22 The government just told you a compelling story, and
23 there's a bunch of information within that story that's not in
24 dispute in this case. There's a bunch of e-mails and invoices
25 that no one is disagreeing about. But it's when they try to

1 fill in those holes, it's when they make those leaps of logic,
2 that's the important part. That's where the reasonable doubt
3 is, and that's something I'm going to be saying a number of
4 times today.

5 This is going to be the last time that I talk to you
6 in this trial, and I ask you to remember the importance of
7 reasonable doubt, the importance to our society that we don't
8 convict someone of a criminal crime unless the government meets
9 its burden beyond a reasonable doubt. And as they try to
10 connect those dots, as they try to fill in those gaps, the
11 government told you what they thought the purposes is, but they
12 have to prove those things to you beyond a reasonable doubt.
13 And here's the thing. Still, even though they want to push away
14 Mr. Sorenson in their closing a little bit, so much of the dots
15 that they have to connect are based on the word of a man who
16 can't be trusted.

17 Mark Twain said, tell the truth and you don't have
18 anything to remember. It's easy to tell the truth. You don't
19 have to remember what your story is. You don't have to remember
20 which story you told to which people, the different versions.

21 Mr. Sorenson has lied so many times about this case he
22 probably doesn't even remember what the truth is anymore. And
23 it really has to be exhausting to remember all of the different
24 fibs you've told about the same story. You saw him on the
25 witness stand, and you saw oftentimes how nervous he would be

1 about answering questions because he knows that there's some
2 things we can corroborate the story with and point out the
3 inaccuracies, and there's some things that he knows or thinks
4 that there's no way for it to corroborate whether or not he's
5 telling the truth. And you see him sometimes getting nervous on
6 the witness stand, trying to figure out if there's any way that
7 we have anything that shows that he's not being correct. That's
8 why you see him hedging a lot of times and other times just
9 hedging about what's wrong about what he said about this case in
10 the past.

11 We'll talk more about Mr. Sorenson in a little while,
12 but before we get there, I'm going to level with you. If any of
13 you on this jury are cynics, this was not the case to restore
14 your faith in politics. This wasn't -- this whole event was
15 perhaps not democracy's best moment. I'm not saying that. I
16 told you at the beginning of this case, I'm going to say it
17 again now, I'm not asking that you approve of my client's
18 ethics. I'm not asking you to say that he used the best
19 judgment. I am asking that you keep some things in context.
20 This is politics. It's a little bit like watching sausage being
21 made. It's not something you always want to see, and sometimes
22 people in politics do something not because it's legal or
23 illegal, but because it's politically expedient and they don't
24 want to be harmed politically, and that's the only reason they
25 do it is because they're concerned about their political future.

1 They're concerned about who might hire them in the future.
2 They're concerned about how their bosses might look in the
3 future, not necessarily about whether what they're doing is
4 within the law or not, but how it's perceived by other people.
5 And that's their motivation, that motivation that has absolutely
6 nothing to do with the law.

7 I also want you to keep into account that sometimes
8 our judgment lapses for reasons other than we want to obey the
9 law or we don't want to obey the law or we're not thinking about
10 the law at all sometimes to make things happen in our life. And
11 the evidence here, you heard from Pavlo Kesari, is that Dimitri
12 Kesari lost his mom on December 7, 2011, and that's something --
13 and we're going to get into the intent requirement a little bit
14 that the government has to prove in order for you to return a
15 guilty verdict; but that's something that you can take into
16 account as to whether he was actually doing things trying to
17 think about whether what he was doing was legal or illegal or
18 whether there were other things going on in his life at the time
19 that made him not think as clearly as he otherwise would have.

20 This is America. Bad politics isn't a crime. It's
21 something that's protected. Some people say that it's the worst
22 system in the world, except for all the others. And this is
23 politics, and the decisions that were made were political
24 decisions, and that's going to be important for you to remember
25 in this case.

1 The government talked a lot about the Federal Election
2 Commission and whether Mr. Kesari and anyone else had any
3 intention to cause any false reports with the Federal Election
4 Commission, and that's very important to remember, that the
5 Federal Election Commission has to be a target. They have to
6 target false filing with the Federal Election Commission. They
7 have to prove that to you beyond a reasonable doubt; but you
8 heard evidence time and time again from witnesses on that stand
9 who told you that Mr. Kesari was not involved in the compliance
10 part of the campaign. He was an operative. He was on the
11 political side. It was his job to go out and get people to vote
12 for his candidate, to get volunteers, to get staff, put together
13 a ground organization. And things were busy. You heard all the
14 arguments about -- or all of the evidence and testimony about
15 how busy things were. He wasn't thinking about the reporting.
16 He was thinking about the election. He was thinking about all
17 of the different caucuses and primaries that his candidate was
18 going to have to go through and how that would look.

19 Now, a lot of us have often heard the phrase that
20 ignorance of the law is no excuse. It's bantered around a lot,
21 and actually oftentimes it's right; but in many of the charges
22 that are before you today that you've heard, that is not
23 correct. And I want you to remember that up front.

24 In this case we're going to get into what willfully
25 means. Ignorance of the law is an absolute excuse, and it's

1 more than that. The government had to prove to you that
2 Mr. Kesari knew what he was doing violated the law. Beyond a
3 reasonable doubt they had to prove to you that Mr. Kesari knew
4 what he was doing violated the law. Let's remember that.

5 Mr. Sorenson came and tried to give you the
6 performance of a lifetime. It's important because of the plea
7 agreement, and it's a substantial cooperation agreement. You
8 have the substantial cooperation agreement in evidence. I
9 encourage you to look at it, look over it very carefully. The
10 devil is in the details. And read that and see what his
11 incentive was in this case.

12 This is someone who pled guilty to lying about the
13 facts in this case. How many times when he was under
14 examination from the government did he admit that he lied? Lied
15 to the press, lied to other people he knew, lied under oath
16 about this case. He has already lied about these facts in this
17 case. When they're trying to plug those holes with things from
18 Kent Sorenson, what credibility do you give him?

19 The government wants you to believe that now he's gone
20 to work for them, under the substantial cooperation agreement,
21 to help the government with their case that he's cured of those
22 lies. Matter of fact, it's kind of interesting how when
23 Mr. Sorenson was asked about whether he told the grand jury that
24 the Dennis Fusaro tape was correct, was true, the verbal
25 gymnastics that the government did to try to say, oh, no, no,

1 no, you weren't really saying that you thought the tape with
2 Mr. Sorenson was correct, the verbal gymnastics they did to try
3 to say no, no, no, that was true, at the same time they have
4 other people on trial without always putting things in context
5 for lying.

6 Mr. Sorenson came here. He sat in that box. Let me
7 tell you something. He lied to you. It's not something that I
8 say lightly, but it's true. He lied on a number of times that
9 we can actually corroborate, and we did. And, remember, it's
10 not our burden to show you anything. We have no burden here to
11 show that anything is true and false. They have to prove the
12 elements of their case beyond a reasonable doubt. We have to
13 prove nothing; but we still brought witnesses in here. We still
14 showed you some of his former testimony to show on a number of
15 occasions what he was saying was inconsistent with other things
16 that he had previously said.

17 And if you look at that substantial cooperation
18 agreement, the government gets to decide whether the help that
19 Mr. Sorenson gave them in this case was substantial. If he lied
20 when he told his story to the government and was honest with you
21 here today -- or last week when he was here, they can prosecute
22 that. Think about that.

23 And he's having financial trouble. He told you about
24 that, told you his house is in foreclosure, he's got bills due
25 and he really can't afford to spend much time in prison and,

1 like I said, came here and tried to provide the performance of a
2 lifetime, and he admitted that he has a strong incentive to
3 please the government with his testimony.

4 He pled guilty over a year ago. He failed a drug test
5 right after he pled guilty. He's been charged with a
6 misdemeanor since then. These are things that are not good for
7 where he sits right now. He really needs to please the
8 government with this testimony. He has that incentive to try to
9 put my client away so that he will spend less time in jail.
10 That is a big incentive for him to even otherwise -- if he
11 hadn't already told so many lies, that's something that
12 discredits a lot of the story that he's told you.

13 The government brought up the times that he lied. He
14 talked about whether or not he had a deal with the campaign
15 before he switched. He told you he was sure he did. Well, then
16 when you think about it, he was driving to the fairgrounds to
17 switch, and he says -- or his testimony was that he had asked
18 Mr. Kesari if they still wanted him, then he had to ask
19 Mr. Benton if they were going to take care of him, these broad
20 general statements that could mean so many different things.
21 This is a man who's about to make a difficult political choice.
22 This is political choices that I've talked about. He's about to
23 make a difficult political choice. Take care of you? Still
24 want you?

25 For all these people know at this point because,

1 remember, the evidence suggests that they've already pulled any
2 offer to him, okay. The evidence suggests that that could
3 simply be a man who wants to know if he's going to have a
4 political backing of his new allies, if you can even believe
5 that they said that.

6 First he said that he didn't really care about the
7 check as far as leverage, not until later on in August of 2013.
8 But then after he heard the telephone call of Dennis Fusaro
9 again, he said, use it to get a deal with the campaign. And
10 we'll talk a little bit more about that call later. He was
11 thinking about using it as leverage over Mr. Kesari with that
12 check.

13 There was inaccuracies, other ones. Who was on a
14 conference call. You know, maybe some of those things are white
15 lies, they're not that important. Maybe they're just not
16 remembering everything right; but, again, it's so hard to
17 remember things when you've told the same story so many
18 different ways, remember who you told what version to, what part
19 is consistent with another part.

20 He told you at first he didn't do any work with the
21 campaign. Remember that? And then he admitted he did robo
22 calls, which so many people make, e-mail blasts, TV appearances,
23 traveling with the candidate around Iowa, and he actually went
24 and campaigned in South Carolina for a number of days at the end
25 of January, work that he did for the campaign.

1 On the call with Mr. Fusaro -- well, first, he told
2 you that he got the check right after he got in the car from
3 that restaurant, public restaurant; but then he told Mr. Fusaro
4 that he still hadn't seen it and then admitted that he had lied
5 to Mr. Fusaro.

6 On the computer, could you bring that up?

7 (Pause.)

8 We'll move on.

9 He said he didn't get the check immediately. He said
10 he was considering not working for anyone, he had no idea what
11 he was going to do, and he was holding the check as leverage
12 over Mr. Kesari.

13 And then let's remember the December 29th meeting that
14 he told you about where supposedly this is the meeting where the
15 Federal Election Commission came up, was talked about. This is
16 the meeting where they confirmed that there was some sort of
17 deal the day after he switches. This is the meeting that he
18 says exists, and he tells you that there's a number of people
19 that are at that meeting. He tells you that Mr. Gamble, Jared
20 Gamble was there. You heard testimony that, sadly, Mr. Gamble
21 passed away. He told you that Brian Gentry was there. He told
22 you that Nick Spanos was there or Sonny Spanos, his brother. He
23 told you that Jedd Coburn was there, and he told you that
24 Dimitri Kesari was there and that Jesse Benton was on the
25 telephone with Mr. Kesari.

1 You saw Brian Gentry come here and talk to you and
2 tell you he has no memory of anything like that ever happening.
3 You heard Nick Spanos come and tell you the same thing. We also
4 asked him if he had ever heard of Sonny Spanos, and he said no.
5 I think we asked someone else if they ever heard of Sonny
6 Spanos, and the answer was no. I think we can agree it's not
7 particularly likely that there was ever any Sonny Spanos.

8 Then there's Jedd Coburn. Now, Jedd Coburn didn't
9 actually come and testify, wasn't able to come and testify; but
10 when you go back there you will have Mr. Coburn's transcript
11 from his grand jury testimony. This is what he says at the top:

12 "Do you remember Kent Sorenson sending a draft of the
13 statement he would put out from a ghost e-mail account under the
14 name of Pennyworth?"

15 Mr. Coburn responds: "I remember seeing the
16 statement. I do not know who Pennyworth was.

17 "No one ever explained to you that that was an alias
18 that Kent Sorenson was using?

19 "No, sir. I should also say at the time, after --
20 when the Bachmann Campaign attacked the Paul Campaign for paying
21 Kent Sorenson, I was asked to write Sorenson a statement by
22 Senator Sorenson denying it, and Senator Sorenson told me that
23 he was not being paid.

24 "When was that exactly, as best you can recall?"

25 His answer: "I'm sorry?"

1 The question again: "As best you can recall, when was
2 that that he told you that?"

3 Answer: "It was the morning after he endorsed Ron
4 Paul.

5 "The morning after the event he switched?"

6 "The morning after the event, correct."

7 Now, we didn't have the opportunity to ask Mr. Coburn
8 exactly some of the questions we asked the other witnesses, but
9 he was pretty clear that Mr. Sorenson told him affirmatively he
10 wasn't being paid. And then there's the fact that he says that
11 Mr. Kesari, Mr. Benton was on the telephone and that he could
12 hear Mr. Benton's voice. Well, you heard several people tell
13 you that when Mr. Kesari was on the telephone, he always had
14 that Bluetooth headset, and you heard Mr. Gentry tell you you
15 couldn't hear anybody.

16 From the questions from the government they suggested
17 that that was a busy meeting place. Let me ask you this. Is it
18 someplace that's busy like that more or less likely that you can
19 hear someone's voice through a Bluetooth headset?

20 This is important, and I wanted to get out these
21 inaccuracies from Mr. Sorenson, the ones that couldn't be
22 corroborated, to remind you up front this is not a man you can
23 trust and this is not a man whose testimony you can believe
24 beyond a reasonable doubt.

25 But let's look briefly at the story of what happened

1 here. Mr. Kesari, Mr. Sorenson are friends. They're political
2 allies. Mr. Kesari, the testimony was, served as a political
3 advisor to Mr. Sorenson. There's testimony that Mr. Kesari
4 arranged to bring Senator Sorenson to Florida to receive an
5 award in 2011. This is someone that Mr. Kesari was
6 investigating. You heard testimony that Mr. Kesari would go
7 over to his family's house and cook him dinner. And early on
8 Mr. Sorenson wanted to work with the Paul Campaign but
9 Congressman Paul didn't get in the race quick enough, so he
10 decided to endorse Michelle Bachmann. After some time, which
11 you've heard the story a few times now, he decides he doesn't
12 want to be there.

13 Now, we get into October of 2011 and you remember the
14 testimony from Aaron Dorr who said that he sent that memo to the
15 campaign. There's a couple of things I want you to remember
16 about that.

17 First of all, Mr. Kesari was not on that e-mail or the
18 response.

19 Second of all, Mr. Dorr said that he ran those terms
20 past Mr. Sorenson before sending them to the campaign.
21 Mr. Sorenson equivocates at best on that point. But you know
22 what? Really what happens then the next couple of months are of
23 limited importance. I'm not going to say that they're of no
24 importance because it's giving context, but they're of limited
25 importance because none of that stuff that happens in late 2011

1 is against the law. Even if it was a payment for an
2 endorsement, it might be a bad political judgment, it's not
3 against the law. The \$25,000 check, there was no FEC filing
4 requirement on that \$25,000 check because no one in the campaign
5 ever actually made a disbursement for that check. It's giving
6 you context for what's going on, and it's important context in
7 some ways and in other ways it's just noise. It makes you see
8 that maybe there's some bad political judgments going on. It
9 lets you see that, yeah, the campaign wanted Kent Sorenson to
10 endorse them.

11 One of the important things is that Mr. Sorenson
12 admitted that he was being paid through a company called
13 Grassroots Strategy -- I'm sorry, that he had a company called
14 Grassroots Strategy. That was his company. And on the Bachmann
15 Campaign, there was an intermediary involved, C & M. And he
16 talked to you about the Iowa State Senate Ethics requirements,
17 the rules of the Iowa State Senate. Now, there's laws, and they
18 have rules that can apply to their members where if you break
19 them, not that you can go to jail, but you can be kicked out of
20 a legislative office. He's looking particularly at these rules,
21 the Bachmann Campaign pays him through an intermediary, and
22 that's why he wants to be paid through an intermediary later on
23 when we get to what happens in January.

24 Eventually Mr. Kesari does get involved in the
25 negotiations with Mr. Sorenson, and then eventually they have

1 that dinner at the barbecue restaurant with the check. Now,
2 first Mr. Sorenson tells you he's not sure how the \$25,000 came
3 around, and then he admits that there was \$25,000 that was
4 supposed to go to another gentleman by the name of Guy Short and
5 that he was going to be paid from that amount. I think that
6 gives us the context of where the \$25,000 came from.
7 Mr. Sorenson already wanted the raise from 7,000 to 8,000. He
8 actually wanted to get as much money out of this as possible,
9 and we see he was having some financial difficulties, again
10 giving you the context of just what was going on.

11 The check is given, never presented to the bank, never
12 cashed. There's no payment from the campaign on that at all.
13 The \$25,000 later, that's part of the \$33,000 initial payment,
14 but for that \$25,000, it never gets cashed, never gets
15 disbursed. The campaign doesn't know anything about it.

16 And then you ask yourself what happens then? Does
17 Kent Sorenson sign on the dotted line that he's going to
18 endorse? No. He goes -- he has some conference calls, tries to
19 decide what he's going to do. He tells some people about the
20 check, tries to make a decision. Then he goes to that event at
21 the Bachmann Campaign, and he doesn't feel respected anymore by
22 that campaign. He feels that they don't trust him, and he
23 decides he is going to endorse Ron Paul. He goes to the event,
24 he endorses Ron Paul. He goes on the media and denies the
25 payments. He tells you that Mr. Kesari told him not to cash the

1 check at that point. Now there's the talk about that \$25,000
2 wire.

3 And there's something important about this \$25,000
4 wire. If we could get that focused. It says, "I don't want it
5 showing up on this quarter filings. Can we program it in for
6 the 2nd?" A couple of things. First of all, the government
7 suggests that it's important because they're talking about
8 filings that that meant that somehow Mr. Kesari knew about the
9 FEC requirements. It shows at the most that Mr. Kesari knows
10 that there's FEC filings, not what the requirements are, not
11 what you have to disclose and not what is specifically allowed
12 or not allowed by the FEC. And we don't even know for sure that
13 they're FEC filings. This is about a payment. This is a
14 payment for the calendar year. For all we know it could be
15 taxes. Some people have to make quarterly tax payments.

16 Remember, this is the reasonable doubt standard. You
17 don't have to believe that that's the purpose, but we don't have
18 to prove to you anything. That's their burden. And they're
19 putting a lot on just the word "filings."

20 Second, can't we program for the 2nd? If there was a
21 wire that would have gone on the 2nd, it would have turned up on
22 the FEC reports. And this is a December 29th e-mail. They're
23 not talking at this point. There's not any evidence really at
24 all that Mr. Kesari has gone to his brother's place in Maryland
25 and talked to him about what he wanted to do and eventually

1 getting ICT on. Remember, Mr. Kesari is in Iowa during the run
2 up to the caucuses. Remember that evidence.

3 So who's -- if that wire goes to Kent Sorenson -- and
4 there's no reason to think that it wouldn't because Mr. Kesari
5 is told not to cash the check -- then it would show up on FEC
6 reports.

7 Mr. Sorenson isn't sure that he has a deal. Remember
8 Dennis Fusaro tells you -- you're going to have that recording
9 back in the deliberation room, and I encourage you to listen to
10 it again if you have any doubts about whether you can believe
11 Mr. Sorenson and some of the things that he said when he thought
12 no one was looking, when he thought he was just talking to a
13 friend.

14 He said, I'm going to give him his check back.

15 Mr. Fusaro asked, oh, you are?

16 Mr. Sorenson then said, do you think I should or
17 should I hold on to it? I'm not cashing it.

18 Mr. Fusaro: I understand.

19 Mr. Sorenson: Do you think I should hold on to it or
20 do a deal? Should I hold on to it so I have something over him?

21 Mr. Fusaro: I don't think I would give it to him now.

22 Okay.

23 Mr. Fusaro: Have you -- I don't presume you have been
24 paid by them. Sounds to me like you're not going to be working
25 with them after this. I'm confused. I mean, if you were not

1 doing his bidding, he's not going to pay you.

2 If you're not doing work for the campaign, you're not
3 going to get paid.

4 Sorenson: No, I agree with you.

5 The part I want to make clear, the part where I said,
6 if you're not going to work for the campaign, you're not going
7 to get paid, that's my commentary. That's not in the
8 transcript.

9 Mr. Sorenson says, I honest to God don't know -- when
10 he's asked about the name of Mr. Kesari's jewelry store, he
11 says, I have to look at the check and I'll tell you. I haven't
12 even seen it.

13 Mr. Fusaro then asks him later on, so I guess --
14 excuse me.

15 Yep, so I mean, I guess you're just not going to work
16 for anybody?

17 Mr. Sorenson: You know, Dennis, I honestly don't know
18 what I am going to do and have got to quit talking to you people
19 because every time I talk to someone, they talk to somebody and
20 it comes back to bite me in the butt.

21 Mr. Fusaro: Yeah, you've got that right.

22 Mr. Sorenson: Aaron is freaking out if I quit because
23 I will hurt him and his groups. I don't know what I'm going to
24 do. I don't know, I don't know.

25 He doesn't know what he's going to do. Now,

1 Mr. Sorenson originally told you this call happened on December
2 29th, still after the endorsement and at the same time he says
3 this mysterious meeting happens. But on cross-examination
4 remember that recording -- and you can listen to it --
5 references the article by Kevin Hill in the Iowa Republican.
6 That story was on January the 1st. So that call happened
7 sometime after January the 1st. He doesn't know what he's going
8 to do on the campaign. He does not know if --

9 MR. KRAVIS: I object; not in evidence.

10 THE COURT: That's for the jury to decide. Overruled.

11 MR. BINNALL: He doesn't know what he's going to do.
12 Whenever that call is, he doesn't know what he's going to do.
13 And here is why this is important. Because while it's in the
14 government's interests to have everything flow nicely from
15 October through June, it doesn't. There's the talks about
16 paying Mr. Sorenson in the fall and December of 2011. They take
17 the offer off the table. We don't know what happens at the end
18 of December. At best they certainly haven't proven to you what
19 happens at the end of December.

20 But we know in that period in December, Mr. Kesari
21 tells him don't cash the check. We know that they put up the
22 wire. There's no evidence that that wire ever happens. And we
23 know that Mr. Sorenson is saying, I don't know what I'm going to
24 do. But we know he wants to get paid. So eventually he does
25 get an agreement to be paid, according to the government's

1 evidence, and he gets the \$25,000 retainer, he gets \$8,000 a
2 month between January and June. But that at that point is
3 something that's new, and he says he's using that check as
4 leverage over his friend, Mr. Kesari, to get that deal. And he
5 admits that he was previously paid as an intermediary. He
6 says -- he starts to equivocate about whether it was his idea to
7 be paid as -- through an intermediary to Mr. Kesari, whether it
8 was his idea or whether it was Mr. Kesari's. On the witness
9 stand, he starts equivocating on that.

10 And then I asked him an interesting question. This is
11 the transcript from the trial.

12 "Q. In fact, you actually told Mr. Kesari that the
13 Bachmann Campaign people had checked and that it was legal
14 to do it that way, didn't you?"

15 He responds: "I don't recall telling Mr. Kesari that.
16 At some point in time, that was discussed."

17 After that, if you remember, I made some effort to
18 clarify with him what exactly he meant by it being discussed,
19 and equivocated he wasn't clear. But when I asked him if he had
20 any reason to testify that he didn't have a reason to dispute
21 that he told Mr. Kesari that the accounting to the Bachmann
22 Campaign was legal, he said he didn't have a reason to dispute
23 that. Remember that intent requirement that we're going to get
24 to.

25 So the structure was set up and he was paid through an

1 intermediary, just like he was in the Bachmann Campaign. And
2 you heard a lot of evidence from Fernando Cortes, who was the
3 deputy controller of the campaign and whose job it was to
4 actually code expenses for it to go to the FEC. You remember
5 that it's not Mr. Kesari's job to code anything, to put expense
6 numbers on anything. There's no evidence he knows what those
7 random numbers are. He has his assistant, Mr. Gamble, doing his
8 expense reports.

9 MR. KRAVIS: Objection; not a fact in evidence.

10 THE COURT: The jury can decide whether that's a
11 reasonable inference from the evidence that was admitted.
12 Overruled.

13 MR. BINNALL: And the invoices importantly didn't say
14 audiovisual on them. They said production services. And,
15 remember, I asked a bunch of questions about those reports,
16 about the ledger, about things in the different categories.
17 Here is why that's kind of important; a small point but an
18 important one. It's because all of those different categories,
19 printing, advertising, there's a number of them, they could fall
20 under the umbrella of production services, but Mr. Cortes chose
21 audiovisual. Why did he do that? We don't really know why he
22 did that. But what he testified to is that he thinks he asked
23 Mr. Kesari, but he doesn't remember what Mr. Kesari said, and
24 that's his testimony, he admits that's the testimony that he
25 gives to the grand jury, which, of course, is closer to the time

1 of the actual event than we are here today, all right.

2 And he says that later that he has his memory
3 refreshed that at some point Mr. Kesari said something about
4 videos. He said he had his memory refreshed from an e-mail. So
5 here's what I would like you to do if you could. Go look at the
6 e-mails from Mr. Cortes where he's a party on, where Mr. Kesari
7 is a party and see which e-mails talk about videos. I haven't
8 been able to find it.

9 There is that e-mail from Mr. Kesari to Pavlo Kesari
10 where he says, send me an invoice. So let's take a look at that
11 one really quick. This is Exhibit 69. This is on January the
12 24th, 2012, Dimitri Kesari to Pavlo Kesari. "Here is the
13 invoice that needs to be taken care of. Send me an invoice for
14 video services. 33k plus."

15 You've got to remember the full picture here.
16 Mr. Kesari's brother is in the audiovisual industry, and
17 Mr. Kesari knows that his company did some work through the
18 campaign -- for the campaign. This is a quick e-mail. It's not
19 a long one. Remember this, about how busy this time of the
20 campaign is, and you see a lot of e-mails that are obviously
21 very rushed. And he says, "Here is the invoice that needs to be
22 taken care of." And he says, "Send me an invoice for video
23 services."

24 His brother does send an invoice for the services that
25 his company performed. Now, his testimony was it was audio

1 services, but the brother's company is an audio video company.
2 There would be nothing surprising if Mr. Kesari just said video
3 services not knowing exactly what work his brother did for the
4 campaign, not knowing if it was audio or video, or just using
5 shorthand video. That's the only time you see video. And if
6 this was what was used, because we don't know if it was used to
7 refresh Mr. Cortes's recollection, this isn't something that can
8 refresh his recollection because there's no evidence. It wasn't
9 on there. They showed you a lot of e-mails, read a lot of
10 e-mails, but never showed you anything that said this e-mail was
11 forwarded on to Mr. Cortes.

12 Fernando Cortes, he doesn't e-mail ICT. He doesn't
13 call ICT. He doesn't say how those should be properly reported.
14 He tells the grand jury that he doesn't remember what, if
15 anything, Mr. Kesari tells him. But we know that Mr. Cortes
16 does not like Mr. Kesari. He testified to that when Mr. Howard
17 asked him. He's not friendly with Kesari, doesn't like him.
18 But he's a little bit afraid when the media comes out about what
19 was going on and he's visited by federal officials who start to
20 talk to him. And who's the first person he tries to throw under
21 the bus? Mr. Kesari, the guy in the campaign that he doesn't
22 like. Remember, you heard how the compliance side of the
23 campaign works. Most of the people in the campaign are on the
24 office side that get people to vote. And then you've got people
25 on the compliance side, and that shows Mr. Cortes has an

1 assistant, then Mr. Cortes and then Deana Watts. That was the
2 path to the treasurer. Those were the people that it was their
3 job to make sure that the things that go to the FEC are correct.

4 But in this trial you heard from David Mason. You
5 heard from someone who's twice been the chairman of the FEC,
6 served on the Federal Election Commission for over ten years,
7 and now has a business helping people with FEC reports and tells
8 you this is complicated.

9 Now, the government suggests that the issues here are
10 simple; but that's not exactly what Mr. Mason says on the stand.
11 In fact, it's not at all what Mr. Mason says on the stand. When
12 he was asked specific questions, he said, well, that's kind of
13 an open issue right now. He told you that they don't even know
14 exactly what the rules are on some of these things, about
15 ultimate payees, umbrella vendors. One thing that they -- that
16 he does say is that normally the umbrella vendor is doing work
17 for the campaign and the sub vendor is doing work for the
18 campaign, oftentimes through the umbrella vendor. But I asked
19 Mr. Mason on redirect examination if one of those services can
20 be paying other vendors, sub vendors. He said yes.

21 There's a whole line of businesses that do this called
22 staffing agencies. Mr. Izon says paymasters. That's something
23 you can do. Here is why it's important. We're going to get to
24 the instructions and the intent requirement soon. Because if
25 Mr. Kesari believes that there's a loophole there, believes that

1 that's something that's allowed by the law, then he's not
2 guilty. That's why that's important. I'm not trying to prove
3 to you what the law is or what the law isn't. Remember, I don't
4 need to prove anything. The government has to prove everything.
5 It's their burden to show that he was intending to break the
6 law, not Mr. Kesari's burden.

7 Mr. Mason talked to you about the nature of campaigns.
8 He told you in family run campaigns like this one, sometimes
9 it's even more complicated and that opinions are often difficult
10 to search. There's over 400 pages of regulations, says the type
11 is really small. He says that there's some very technical
12 issues involved. And remember that Mr. Izon told you that
13 paymasters are normal in Mr. Izon's industry. This is something
14 where it's easy to see why someone would believe that there's a
15 loophole there.

16 Now, we're going to talk about August 13th kind of at
17 the end when we get to that count, but I'm going to go through
18 some of the jury instructions with you right now because these
19 are important. The devil is in the detail. The burden is on
20 the government. That's what I want you to keep remembering
21 here.

22 In instruction No. 7, instruction No. 7 you see what
23 intent and knowledge is. There's two different levels of intent
24 that is relevant to some of these charges. If it's just
25 knowledge, knowingly doing something, then if it's just

1 knowledge and not with the intent to do something else, then the
2 government doesn't have to prove to you that the defendant knew
3 that his actions were unlawful. They just have to prove to you
4 that the defendant was aware of his act and it wasn't through
5 ignorance, mistake, or accident. That's knowingly.

6 Willfully is a different story completely. A person
7 may not be aware of a specific law or rule that his conduct may
8 be violating, but he must act with the intent to do something
9 that he knows the law forbids. That is their burden when
10 willfully is involved, beyond a reasonable doubt that Mr. Kesari
11 knew that it was something that the law forbids.

12 Now we'll also talk in one of the instructions, it's
13 knowledge with intent to do something else, and we'll get there.
14 It's a little bit similar to you have to have more than just
15 knowledge that you're doing something.

16 Let's go to instruction No. 8.

17 Good faith is a complete defense. If the defendant
18 acted in good faith, sincerely believing themselves to be exempt
19 by the law from the conduct constituting any of the above
20 charges, then the defendants did not act intentionally to
21 violate a known legal duty. They didn't act willfully.

22 Now, it's important to remember that there's the
23 willfully ones, and then we're going to get to Count 2, which is
24 the knowledge plus. For both of those counts, good faith is
25 intent. And this is where it gets a little confusing. I want

1 to make sure we're still on the same page. It is still not
2 Mr. Kesari's burden to prove to you good faith. It is the
3 government's burden to prove that he acted willfully.

4 Go to instruction -- turn back to instruction No. 4
5 for a minute. All right. I know I've been saying a lot. In
6 the middle of the page there, there is no burden upon a
7 defendant to prove that he is innocent. Accordingly, the fact
8 that a defendant did not testify may not be considered by you in
9 any way, or even discussed in arriving at your verdict. You
10 didn't hear from either of the defendants in this case. They
11 have a constitutional right not to testify, and even before
12 opening arguments, even when we're back in voir dire, we all
13 agreed that nobody is going to be held -- it wasn't going to be
14 held against anyone if they didn't testify because the
15 Constitution of the United States gives them that right.

16 Instruction No. 5 starts on the next page, but I'm not
17 going to start at 1. I'm going to start at 2 and come back to
18 1. Count 2, page 8. All right. There are three elements to
19 count No. 2, and the important thing that I want you to remember
20 about all of these elements is that if it's in an element, the
21 entire element, that has to be proven beyond a reasonable doubt.

22 Element No. 1 says that Mr. Kesari between February
23 2012 and August 2012, defendant Dimitrios N. Kesari knowingly
24 made or caused to be made a false entry in a record or document.

25 This specifically says on this one knowingly, right?

1 So he has to know what he was doing was causing a false
2 document. In this case they say the FEC. Now, certainly he
3 didn't make it. We all know that wasn't part of his job
4 description. So their case is that he caused someone to make
5 it; but there's no evidence again that that was what he was
6 thinking about doing. There's political reasons to explain why
7 he was thinking about doing this.

8 Two -- remember I said knowledge plus; this is where
9 we get to the plus -- the defendant did so with the intent to
10 impede, obstruct, or influence the proper administration of a
11 matter. That means if Mr. Kesari -- if they haven't proven to
12 you that Mr. Kesari caused any sort of a false record with that
13 specific intent, they have not proven their case beyond a
14 reasonable doubt. The other reasonable explanations for this
15 show that he had other reasons for his actions, not with the
16 intent to impede, obstruct, or influence the proper
17 administration of the matter. Let's remember the campaign
18 requirement in this job. I'm not saying they were ethical
19 reasons, but that doesn't mean he's guilty of a crime.

20 Let's go to Count 3. The first count (sic) is
21 important. The devil is in the details, ladies and gentlemen.
22 Mr. Kesari has a right to have every single element proven
23 against him beyond a reasonable doubt. That in or about
24 February 2012 to on or about August 2012, in the Southern
25 District of Iowa, a federal campaign committee made one or more

1 false reports to the Federal Election Commission.

2 Where did you hear any evidence at all that a report
3 was made from Iowa, from any district of Iowa? You heard that
4 the people who were making reports were sitting in Texas. You
5 heard that the Federal Election Commission is in Washington,
6 D.C. You heard that the campaign had its headquarters office in
7 Virginia. This is an element of the offense that has to be
8 proven beyond a reasonable doubt. You did not hear any evidence
9 regarding this.

10 Two, more than \$25,000 here, okay.

11 But we get to 3. This one has to be knowingly and
12 willfully. He knew that there was going to be this false report
13 and he willfully was breaking the law. Not willfully working to
14 hide this from people in the campaign as Mr. Izon suggested he
15 thought it was something along the line of intramural politics,
16 not trying to evade the Iowa State Senate. That's not a
17 violation here. Now, they may say, well, wait, you hide it from
18 the Iowa State Senate, you hide it from the Federal Election
19 Commission. They still have to prove that the intent was to the
20 Federal Election Commission beyond a reasonable doubt. They
21 haven't done that. They haven't proven to you that Mr. Kesari
22 knew one way or the other whether the Iowa State Senate, for
23 instance -- remember, not my burden -- for instance, looked at
24 the banking records of their members. If that was the intent,
25 if the target was the Iowa State Senate, then you have to find

1 Mr. Kesari not guilty.

2 Then you get to Count No. 4. Page 11 is where the
3 elements are. Between February and August of 2012, defendant
4 Dimitrios N. Kesari knowingly and willfully caused the filing of
5 expenditure reports with the Federal Election Commission that
6 falsified, concealed, or covered up a fact.

7 We're right back at knowingly and willfully. We've
8 talked about it a few times, I think. You probably know what
9 I'm going to say about that. There are other examples of that,
10 and it's not Mr. Kesari's burden to show why he acted. It's
11 their burden to show that it was specifically to break the law,
12 to cause this false report and to break the law. They haven't
13 done that.

14 I'm going to get to another point that may seem like
15 I'm splitting hairs, but it's actually important for the
16 reports. They were accurate. In most ways they were accurate.
17 The Paul Campaign did pay ICT. You've heard no evidence, you
18 have no instruction to say that you can't pay an intermediary,
19 you can't pay someone who will turn around and pay someone else.
20 You've heard nothing. Remember, the judge is the only one who
21 can give to you the law, and nothing in there says that people
22 cannot do that. It might sound like a lawyer, I happen to be a
23 lawyer, but that's still important.

24 For the audiovisual expenses, the first expense, the
25 \$32,000 one didn't include audiovisual expenses. After that it

1 did. But is there any evidence after the first one that anyone
2 asked Mr. Kesari about how to label anything on the FEC reports?
3 Is there any credible evidence that they did it on the first
4 one, asked him if it should be audiovisual or some other type of
5 expense? They didn't. So if that part is incorrect, that's not
6 because of Mr. Kesari.

7 THE COURT: You've got about ten minutes left.

8 MR. BINNALL: Thank you, Your Honor.

9 Count 1, let's go back for a second.

10 All right. Here's the reason why I will do Count 1
11 now because what you see in the first element of Count 1 is that
12 from December 2011 through October 2014, two or more people
13 reached an agreement to commit one of the following offenses.
14 It's knowingly, willfully. Willfully -- the intent requirements
15 are right there, and you need to look at those because if you
16 don't have them otherwise, the intent requirements, then you
17 still don't have them for the conspiracy count.

18 Also, Mr. Kesari voluntarily and intentionally joined
19 in an agreement. Now, the interesting thing here is that some
20 of their evidence suggests that there may have been multiple
21 purposes, that maybe Mr. Kesari was trying to hide it from his
22 bosses from the campaign, from other people, whereas
23 Mr. Sorenson was trying to hide it from the Iowa State Senate.
24 There has to be that agreement. Here is the important part. It
25 has to be an illegal agreement. It has to be one of those

1 things in element 1, not agreeing to do something we don't like.
2 It has to be an agreement to do something unlawful. So if what
3 they're doing is for political expediency, we don't criminalize
4 that in this country. And that charge also tells you that there
5 has to be among the people in the conspiracy unanimity in
6 purpose.

7 I know I've talked awhile. Let's talk about Count
8 No. 6. And there's something real easy about Count No. 6 that
9 I'm going to tell you at the end that makes it obvious; but
10 before we do, let's talk about the jury instruction on page
11 No. 12. Actually the elements are on page No. 13. Let's start
12 at 2 on this one. That's the knowingly requirement here. But
13 we're back to kind of the knowingly plus situation again because
14 element 3 says, the defendant acted with the intent to hinder,
15 delay or prevent the communication of information to a law
16 enforcement officer of the United States or judge of the United
17 States.

18 That's important here because the government's entire
19 case on Count 6, everything on Count 6 rests on the word of Kent
20 Sorenson, and even Mr. Sorenson told you that when Mr. Kesari
21 allegedly went to his house and asked about the wire, he didn't
22 know if Mr. Kesari was concerned about the FBI or if he was
23 concerned about Dennis Fusaro and the recordings. In other
24 words, he doesn't know if he's concerned about the law, legally
25 what's required, or if he's concerned about politics.

1 But here is what we do know about the summer of 2013.
2 Mr. Kesari is still Kent Sorenson's political advisor, and he's
3 trying to help him out of a political jam. He's in a
4 politically tough spot, and they start talking about
5 Mr. Sorenson running for U.S. Senate. Mr. Kesari actually at
6 this point is starting to talk to a pollster. Remember, that's
7 Mr. Spanos. And even those text messages that they showed
8 you -- this one is, "I think I have KS ready to resign." One,
9 two, three, up. Remember are you polling up to the front or
10 side. Lee Bright wants to meet Paul Broun. They say, why would
11 Mr. Kesari worry about a senate election in Iowa? Mr. Kesari is
12 a political operative. That's what he does. He's worried about
13 senate elections all over the country. Remember, this is the
14 2014 cycle, a big cycle for senate elections.

15 They point out that it says resign instead of deciding
16 to run for senate or something like that. This is a text
17 message. You don't have a lot of characters. This is something
18 that is obviously just something that is sent in a hurry. And
19 how many times can text messages be read out of context? It's
20 one sentence, and it shows that Mr. Kesari is thinking about
21 politics. And if he's thinking about politics, you have to find
22 him not guilty of Count 1.

23 Remember that draft press release e-mail? That's
24 important for a different reason, for a couple of reasons. This
25 is Government's Exhibit 60. Remember this? This is the press

1 release about trying to save Mr. Sorenson's political hide.
2 Political advice, August 7. What year? 2013. Now, you
3 remember the government asks Mr. Sorenson about this e-mail.
4 They asked him if something happened about that time. And that
5 e-mail in 2013 is when they say that Mr. Kesari allegedly made
6 this trip to Iowa. Remember when I said I would make it easy
7 for you on this one? Here it is. No. 1, in August 2014
8 defendant Dimitrios N. Kesari corruptly persuaded or attempted
9 to corruptly persuade another person. It's the wrong year.

10 MR. KRAVIS: Objection. This isn't the law. It's a
11 typo.

12 MR. BINNALL: It's also in the indictment, Your Honor.
13 It's correct.

14 THE COURT: It's what the indictment says.

15 MR. BINNALL: The wrong year. That's important
16 because when you're trying to find out what people like Kent
17 Sorenson say, how are you supposed to figure out if you have an
18 alibi if you don't even know what year it is?

19 This one is easy. If there's any doubt that that's
20 what Mr. Sorenson said on the stand -- do we have that? We'll
21 try this one again.

22 (Pause.)

23 THE COURT: Hold it. If this is your last point, we
24 can do it after lunch.

25 MR. BINNALL: Very well, Your Honor.

1 THE COURT: It's up to you.

2 MR. BINNALL: And I promise I'll be very, very quick
3 after lunch.

4 Thank you very much for your time.

5 THE COURT: Members of the jury, we will go to lunch
6 until 1:30.

7 There was a mention of the Southern District of Iowa.
8 I'll just inform you that for the purposes of this case, all of
9 Polk County is within the Southern District of Iowa.

10 With that, we'll break until 1:30. We'll see you
11 ready to go then.

12 (Recess at 12:10 p.m., until 1:30 p.m.)

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AFTERNOON SESSION 1:27 p.m.

(In open court, out of the presence of the jury.)

THE COURT: Please be seated. Thank you.

4 Obviously, two issues just arose, nobody having
5 requested instructions on the issue of venue or the "on or
6 about" language that we typically give, typically where there's
7 an issue about the dates, we say the indictment charges that
8 offenses were committed on or about or between certain dates.
9 Although it is necessary for the government to prove beyond a
10 reasonable doubt that the offenses were committed on a date
11 reasonably near the date alleged in the indictment, it is not
12 necessary for the government to prove that the offenses were
13 committed precisely on the dates charged.

14 With respect to venue, when it's requested we
15 typically say two things: That the offense has to be either
16 begun, continued or completed in the Southern District of Iowa
17 and that it is proved by a preponderance of the evidence or
18 evidence that is convincing -- more convincing than opposing
19 evidence or more likely true than not true.

20 What's the parties' position as to whether I should
21 give those now?

22 MR. KRAVIS: The government requests those
23 instructions.

24 | THE COURT: Both of them?

25 MR. KRAVIS: Yes, Your Honor.

1 THE COURT: Mr. Binnall?

2 MR. BINNALL: Your Honor, it's waived at this point.

3 The government had the opportunity to ask for those
4 instructions. They haven't done it. At this point we're
5 halfway through summations, and it would be very prejudicial to
6 have to go through and have to redo the issues with the jury
7 instructions now, especially since this was noticeable to the
8 jury. And it's going to be unfairly prejudicial to my client to
9 change jury instructions midstream, and we would say that like
10 everything else, any objections have to be made at the proper
11 time, otherwise they're waived. The government had a full
12 opportunity. We went through these jury instructions in detail.
13 We sent them to the court, our proposed ones before trial. The
14 court sent something back last Friday, and we provided our
15 changes to the court. We told the court what we objected to,
16 what we didn't. We had the working session last night. We
17 handled them again this morning. Anything else that the
18 government would have wanted on these, they have had ample
19 opportunity for, and it would be too prejudicial. It's too
20 late. It's our position it's waived.

21 THE COURT: Mr. Howard or Ms. Sinfelt?

22 MR. HOWARD: No position on it.

23 THE COURT: Very well. I'm giving both of those
24 instructions. We mentioned in the instructions Southern
25 District of Iowa. The issue has been raised, and the jury is

1 going to wonder how to deal with it. Frankly, I thought the "on
2 or about" language helped your client, but you can decide
3 whether you like it or not.

4 All right. Call the jury, please.

5 MR. BINNALL: Your Honor, could I have just a couple
6 more minutes to address the new issues? I will be very quick.

7 THE COURT: Yes. Absolutely, yes, any reasonable
8 amount of time that you want.

9 MR. BINNALL: Thank you.

10 (In open court, in the presence of the jury.)

11 THE COURT: Please be seated.

12 So two things came up in Mr. Kesari's closing argument
13 that I thought we would take just a moment to address. The
14 first is the issue of what we call venue. Venue has to do with
15 the connection between the alleged offense and the district
16 where it's prosecuted. Obviously, you can't prosecute somebody
17 in Alaska for an alleged crime that occurred in Florida. It has
18 to have some connection with the district.

19 So the government must prove that it is more likely
20 true than not true that the offenses charged either began or
21 continued or were completed here in the Southern District of
22 Iowa, and I told you that all of Polk County is in the Southern
23 District of Iowa. You decide these facts by considering all of
24 the evidence and deciding what evidence is more believable.
25 This is a lower standard than proof beyond a reasonable doubt.

1 The requirement of proof beyond a reasonable doubt applies to
2 all the other issues in the case.

3 So the issue of venue we decide by whether the
4 evidence in favor is more convincing than evidence opposing it.

5 The second issue that came up is this issue about the
6 date on Count 6 of the indictment. And with respect to all of
7 the dates alleged in the indictment, I instruct you as follows:

8 The indictment charges that the offenses were
9 committed on or about or between certain dates. Although it is
10 necessary for the government to prove beyond a reasonable doubt
11 that the offenses were committed on a date reasonably near the
12 date alleged in the indictment, it is not necessary for the
13 government to prove that the offenses were committed precisely
14 on the dates charged.

15 Mr. Binnall, we had him kind of suspend his argument
16 because the court was having some IT issues, and we got those
17 resolved, so I believe that's working real well right now.

18 MR. BINNALL: Thank you, Your Honor.

19 THE COURT: At least I hope so.

20 MR. BINNALL: Me too, Your Honor.

21 I'm not going to take much more of your time up.

22 As the instruction you just got explains, it is the
23 government's burden to show that it happened reasonably close to
24 those dates. The evidence in this case, all of the evidence --
25 and I'm not going to walk you through all the testimony because

1 I've already hashed that out for too long. I'm going to show
2 you just one thing real quick on the monitor hopefully.

3 There we go.

4 This was me asking Mr. Sorenson for the events that he
5 said happened in August of 2013 and said that Mr. Kesari was
6 over at your house a great number of times, and he said correct.
7 But that, again, was August of 2013. You will remember
8 Mr. Pilger, when the government was talking to Mr. Sorenson,
9 talking about the alleged acts, everything was around August of
10 2013. That time frame was important. You remember the text
11 messages you saw from September of 2013, that e-mail with the
12 press release August 7th of 2013. Everything was August of
13 2013. That is entirely your way, and when you're on trial,
14 you're trying to figure out things like alibi defenses. It's
15 important that you have a full understanding of when you're
16 accused to have done something, and the government has failed to
17 do that here, especially someone when you're being accused by
18 someone like Kent Sorenson.

19 For a lot of the other stuff that you saw, the
20 government had some sort of corroboration. You remember reading
21 a lot of e-mails. They subpoenaed some bank records, text
22 messages. They have nothing to corroborate that Mr. Kesari was
23 ever in Iowa to meet with Mr. Sorenson in August of 2013 or, for
24 that matter, for August of 2014. They have no corroboration for
25 that; just the word of Kent Sorenson.

1 Now, briefly on the venue issue, the judge gave you an
2 instruction on that, and I just ask that you read the
3 instructions closely. Even with taking that instruction into
4 account, it talks about the campaign committee, not the other
5 aspects. It talks about the campaign committee. So even though
6 it's that lower burden, because the evidence of the campaign
7 committee was in Texas, there was an office in Virginia, I think
8 you will still find that Count 2 fails.

9 But at the end of the day, all of these counts, so
10 many of their holes are filled in by the word of one man. And
11 if Kent Sorenson told you that the sky was blue, would you have
12 to go out and check? He's just not credible, ladies and
13 gentlemen.

14 Mr. Kesari has put his freedom and his future in your
15 hands, and I ask that you look at all of these things carefully.
16 This is my last chance to talk to you. I ask that when you hear
17 from the government -- they get to speak last because it's their
18 burden. When you hear back from them, think critically about
19 what we would say in response to their arguments. I think at
20 this point, you know, just like I said. I've been up here for a
21 little while.

22 Thank you so much for your time, for your service. I
23 ask that you find Mr. Kesari not guilty on all charges.

24 THE COURT: Mr. Howard, you may make Mr. Benton's
25 closing argument.

1 MR. HOWARD: Almost done.

2 As Mr. Binnall just said, this is my last chance to
3 address you, too. The government has the burden of proof as
4 they always do in these cases. They will get the last word.
5 But before I start, before I sit down, we know the sacrifice you
6 make. We know you're away from your families. We know some of
7 you have had emergencies. On behalf of Mr. Benton and probably
8 everybody in this courtroom, we want to thank you for one of the
9 great services that this country relies on, serving as a juror.
10 You serve as that buffer between the government and the people,
11 and we appreciate that.

12 As you consider these charges, you've heard an awful
13 lot about conspiracies. You've heard an awful lot about the
14 invoices, and I just want to remind you as you're considering
15 Mr. Benton, we're here for one charge and one charge only. It's
16 hard not to be washed over by all the information that is coming
17 from the government. And as you think about that charge and as
18 you think about what Mr. Benton is facing, I just want you to
19 remind yourself of one thing. The only things that you can
20 consider are the documents that have been admitted and what
21 comes from that witness stand there.

22 Keep in mind the government gave a very interesting
23 closing and it would have been more interesting if Mr. Kravis
24 had actually been sworn. This is about evidence. It's not
25 about anybody's argument. It's not about anybody's inference.

1 It's about evidence, what have people shown you, what have
2 witnesses said. And you can pull all kinds of inferences from
3 documents, all kinds of inferences from documents; but they have
4 to make sense. And, you know, we bring you in to the system as
5 you know, you were selected. We asked you to serve mainly
6 because of your wisdom. You know, you sit here and you're going
7 to hear arguments from all sorts of people. You're going to sit
8 there and you're going to listen to all sorts of folks on that
9 witness stand. As you know now, some of them lie, some of them
10 embellish; but this is all about what makes sense to you
11 collectively.

12 And so what I'm going to ask you is that when you
13 listen to these inferences, when you listen to the arguments of
14 the government and, quite frankly, any of the lawyers, this is
15 all about what makes sense to you.

16 I'm going to -- I've been a law professor in the past,
17 and I won't tell you where because I know that at least one of
18 our rival schools is here in the State of Iowa; but I used to
19 tell my class that you're not going to remember much from most
20 law school classes or almost all classes. There's a lot of
21 information flow as there is here.

22 So at least as I talk, I would like to have you keep
23 your mind on four things.

24 First of all, your decision about Mr. Benton has
25 everything to do about what happened across the street here on

1 July 21, 2014 in his interview with the FBI and the Department
2 of Justice. And as you remember that interview and if you can
3 just -- as you listen to all of the other information, quite
4 frankly, as you review all of the other information, keep in
5 mind with that interview there was no transcript, there was no
6 video. The only information you have is from an agent who was,
7 according to her testimony, the lead prosecutor and, by her own
8 admission, not the note-taker. We know that the notes that she
9 reviewed have errors. And we know that few, if any, questions
10 were actually written down, but we want you to focus on that
11 interview.

12 The second thing we want you to focus on, and if I can
13 I will, just quote the government, follow the money.

14 Now, as you look at the evidence, for all of the
15 adjectives are used for what floats around in these bank
16 accounts, Mr. Benton agreed to pay Kent Sorenson and Chris Dorr,
17 Kent Sorenson \$8,000 a month and Chris Dorr \$5,000 a month to
18 work. And I'm going to ask you to look at that exhibit from
19 Mr. Benton. I believe it's going to be Government's Exhibit No.
20 10, and you will see that's the only thing he promised. Despite
21 all the excitement, despite all the intrigue that is given by
22 the government, that's the only thing that he ever promised to
23 Mr. Sorenson.

24 Mr. Benton does not appear on any other payment
25 involving Sorenson. As a matter of fact, one of the agents

1 testified that during Mr. Benton's interview, he said that he
2 was probably trying to screw Kent after he had worked with his
3 counsel.

4 There are two e-mails on which Mr. Benton's name
5 applies. The one you see quite a bit, the February 7, 2012
6 e-mail, the "yo handle" e-mail, I think both sides have pointed
7 that out; but I want you to remind yourself of two things with
8 that, the "yo handle" e-mail. First of all, that was given to
9 the government by Mr. Benton. They didn't discover it.
10 Mr. Benton handed it to them. It also demonstrates what you've
11 heard from the stand here from Mr. Baeza yesterday that he is
12 not a micromanager. He wants people to do their jobs, and then
13 he gets out of their way.

14 And then the second e-mail in which a payment to
15 Mr. Sorenson is made and his name applies is the May 2, 2012
16 e-mail. And what I want you to remember about that is -- and
17 this is what the government did not tell you in their closing is
18 that e-mail is never found on Mr. Benton's Gmail server. It's
19 just not in his account, and it's never found on the Ron Paul
20 server. Mr. Benton has said he has never seen it, which makes
21 all the sense in the world because the evidence indicates that
22 he never got it.

23 The third thing I would like you to remember as we go
24 through this is Kent Sorenson is a liar. If you pulled nothing
25 else from this case, that you can take, if you will, to the

1 bank. I'm not making an observation. What I'm doing is I am
2 quoting Mr. Sorenson. He admits he's a liar. He says that, you
3 know, he's lied, and the list went on and on and on. As a
4 matter of fact, when Mr. Pilger examined his own witness, he
5 used the term "lie" or "false" in describing Mr. Sorenson 18
6 times. Now, I'm not going to take you through chronologically.
7 Right now I think you may be as well versed as anyone on what
8 happened; but if you remember the December 29th meeting,
9 December 29th when -- right after Mr. Sorenson had left the
10 Bachmann Campaign and come over to the Paul Campaign, what
11 Mr. Sorenson testified to was that everyone knew, everyone knew
12 he was getting paid, and he said this happened in a meeting with
13 Jared Gamble, Dimitri Kesari, Nick Spanos, Jedd Coburn, Brian
14 Gentry.

15 You know who Mr. Kesari is. As Mr. Binnall pointed
16 out, Mr. Gamble is no longer with us. Everybody else we've met.
17 One of the things you should have learned yesterday hopefully,
18 at least from their testimony, is that according to the other
19 gentlemen that were identified by Mr. Sorenson as being at that
20 meeting, the other gentlemen indicated unequivocally no meeting
21 like that ever happened. And keep in mind, the government
22 didn't call these witnesses. The prosecution -- the defense
23 did. The government didn't want anybody contradicting
24 Mr. Sorenson, and clearly they did.

25 And you have to ask yourself as we go through this, is

1 this another lie to keep track of? The evidence would seem to
2 indicate that it is. And at this point in Mr. Sorenson's life
3 is he able to keep track of lies himself.

4 And the fourth point I want you to keep in mind is
5 that Mr. Kesari is a good friend and certainly a good friend to
6 Mr. Sorenson, and it's that friendship that has caused most of
7 the problems that we're dealing with here today. They have been
8 friends for a long time. They have a long history together.

9 He's cooked at his home. This is Mr. Kesari cooked at
10 Mr. Sorenson's home, cooked for his family, and in the fall of
11 2011 Mr. Sorenson clearly needed money, and it was Mr. Kesari
12 who came to help. And the evidence indicates that that help is
13 the cause of the issues here.

14 We can talk about the federal election campaign laws
15 all we want, but the issue is and what should have made sense is
16 that what Mr. Sorenson wanted was to remain an Iowa State
17 Senator and Mr. Kesari was going to help him do that. And the
18 e-mails demonstrate this.

19 Ladies and gentlemen, the government has failed to
20 carry their burden in this case. They've failed to give you
21 what they promised.

22 I'm going to go over the evidence. Clearly, it's
23 going to be your recollection that carries the weight at the end
24 of the day, but I want you to again take a look at it
25 collectively based on what makes sense with this evidence.

1 Let's start with the interview on July 21st. Keep in mind
2 Mr. Benton is asked to come to Des Moines, Iowa. He thinks he's
3 being prepared by the government to go into a grand jury.
4 Exhibit 75, the "yo handle," he brings with him to give to the
5 government.

6 What do you know about the government preparing
7 witnesses? What have we learned? One of the things we've
8 learned, at least with Mr. Sorenson, is when he needs to be
9 prepared, he's interviewed seven times before he testifies. If
10 you remember Agent LoStracco on the stand, she was asked if
11 people she interviews are allowed to change their 302s, the FBI
12 report of the interview. And her answer was never. But the
13 evidence and later her change in her testimony was that
14 Mr. Sorenson indeed was allowed to clarify his answers;
15 "clarify" her word, but change everybody else's word.
16 Mr. Benton was clearly not given that opportunity.

17 And it was also clear that by the time he had gotten
18 in that room on July 21st, the government had already made up
19 their mind what they were going to do to him.

20 Now, as we talk about Count 5, just the one count,
21 keep in mind as we go through this what the government has to
22 show. They're going to have to show that Mr. Benton made a
23 statement that he knew was false at the time he made the
24 statement and it was material to the FBI.

25 Now, in trying to figure out what those statements

1 are, they will be -- and the court read them to you, they will
2 be in your charging document itself. And what the government
3 alleges is false is that Mr. Benton falsely told agents that
4 Kent Sorenson was not paid by the campaign either directly or
5 indirectly and that -- or that Benton was not aware of any
6 payment to Kent Sorenson either directly or indirectly. Those,
7 in essence, are the elements that the government has to prove.

8 Now, the way the interview went down if you remember
9 is that document after document after document were shown to
10 Mr. Benton. Presumably the documents were followed by
11 questions. And the government in trying to demonstrate this to
12 you indicated that certain documents were given to Mr. Benton
13 and he was allowed to review them, and in the response to those
14 documents, he gave statements that the government has decided
15 are false.

16 And if you will look at Defense Exhibit, when you get
17 back in the jury room, 18, it's a packet of documents that we
18 had admitted just this morning, those e-mails are there. But
19 what's interesting as you look through those e-mails and each of
20 you review the testimony that went on, what you'll see is that
21 the government in its direct examination of Agent LoStracco said
22 that they gave her other documents -- I'm sorry; gave Mr. Benton
23 other documents. And their argument was that these documents
24 showed Mr. Benton's knowledge of the payments to Mr. Sorenson.
25 And when you get back there, those documents we've tried to

1 identify, but they're Government's Exhibits 59, 67, 61 and 68,
2 and you'll find that none of those documents, none were provided
3 to Mr. Benton during his interview.

4 And I want you to especially take a look at document
5 Government's Exhibit 61. And the reason I want you to take a
6 look at that is that the testimony of Agent LoStracco was that
7 the questions for Mr. Benton were about what he thought at the
8 time of the events, which would have been 2011, 2012 according
9 to the government's indictment. But this document, this
10 document that was shown -- wasn't shown to Mr. Benton but
11 identified by Agent LoStracco came out, wasn't sent until 2013,
12 clearly an attempt by the government to prejudice Mr. Benton by
13 making it appear that he had knowledge of the existence of
14 invoices by having this universal approval by Agent LoStracco.
15 But the fact of the matter is at the time of the questioning by
16 the government attorneys and Agent LoStracco at the time of his
17 interview, this document didn't even exist according to its
18 date, and according to the package from the government, it
19 certainly wasn't shown to Mr. Benton.

20 And if you look at Exhibit 75, the "yo handle" -- and
21 we've talked about that -- this is a document that was shown to
22 Mr. Benton. It was shown on July 21st. And the question to
23 Agent LoStracco was, did he have any chance to change his
24 answers? And her response was, he didn't change his answers.

25 But on cross when you -- when Agent LoStracco looked

1 at the notes from the day of the interview, it was shown that he
2 didn't change his answers because, one, the document was shown
3 to him at the end of the day and, two, no one asked him
4 questions about it.

5 Now, the other thing as you look at Exhibit 75 -- I
6 want you to also keep in mind Defense Exhibit 20. This is the
7 phone that Mr. Benton used. And you can see the size of it.
8 You've heard testimony about how he went about his business.
9 And keep in mind that reviewing an invoice on this was probably
10 next to impossible, and the yo handle is more than consistent
11 with someone who is a micromanager, someone who travels and
12 someone who gets thousands and thousands of e-mails over short
13 periods of time.

14 We identified some statements selected by the
15 government, identified by the government as being false
16 according to their indictment under Count 5. These were shown
17 to Agent LoStracco from the notes of the interview. One of the
18 statements was -- this is from Mr. Benton -- quote, we are not
19 paying him and there is no agreement to pay him. That's the
20 quote that came from the government, and that was what was read
21 by Agent LoStracco. However, the full quote from that statement
22 is, quote, I kind of remember thinking we are not paying him and
23 there is no agreement to pay him. Then Mr. Benton said, I do
24 not recall Kent being paid by our campaign. Full statement not
25 provided to you, clearly, manipulation by the government in

1 terms of what the proof is in this situation and, clearly, the
2 two statements are materially different in terms of what they
3 tell the reader.

4 And it's pretty obvious when you read that the
5 government had made a decision what they were going to do with
6 Mr. Benton.

7 The government also looked at -- showed Mr. Benton
8 they indicate Government's Exhibit 87c, and this is an e-mail,
9 and I'm not going to start flopping e-mails on the Elmo. I hope
10 you guys don't miss the entertainment, but I don't want to
11 prolong this anymore than it needs to be. But if you look at
12 Government's Exhibit 87 when you get back in the room to
13 deliberate, this is the one that says, "Yes - last time." And
14 Mr. Benton's response was that he didn't see this e-mail.
15 Benton said, yes, looks like I was authorizing payment to
16 Sorenson. Maybe I am sloppy. Maybe it was done in haste and a
17 mistake.

18 What's interesting about Government's Exhibit 87 is
19 that it is not an exhibit. It is not a document found on
20 Mr. Benton's Google server, and it's not on the Ron Paul server
21 either.

22 Now, when Agent LoStracco was asked about this change
23 in his statement, she said it was not a change, it was a
24 clarification.

25 You've also seen the e-mails on December 28th. This

1 is the e-mail with Benton, Mr. Benton saying, hold for a few
2 days. And the FBI asked during the interview of Mr. Benton,
3 were you aware that Kent Sorenson was getting paid? And what's
4 interesting is on December 28th, if you remember, Mr. Benton was
5 getting ready for a rally for Dr. Paul. And if you remember the
6 testimony, Mr. Sorenson leaves the Bachmann Campaign, drives to
7 the parking lot, contacts Dimitri Kesari, says he wants to
8 switch. There he meets Jesse Benton backstage for the first
9 time.

10 Keep in mind he came over unannounced. He came over
11 after an offer to work was made by Mr. Benton on October 31st,
12 and the fact of the matter is that statement itself was not
13 false because at that time -- and those are the questions that
14 were posed -- Benton had no way of knowing and there is no proof
15 that he knew of the \$25,000 check that Sorenson received from
16 Dimitri Kesari's wife's jewelry store.

17 And on that statement itself the next day, after
18 working with his counsel, Mr. Benton actually gave a further
19 interview to Agent LoStracco, and in this trial she actually
20 used that statement. And keep in mind Agent LoStracco was asked
21 if the FBI ever assumes things in their questions, and her
22 answer was, if you remember, absolutely not. But when shown the
23 report of the interview with Mr. Benton, the question was there
24 where he was asked to speculate. He's been asked to assume.

25 The danger in having incomplete records, the danger in

1 relying on notes, the kind of notes that we all took when we
2 were in school, the danger in not recording these interviews is
3 that you will get things wrong, and we know that they got things
4 wrong here. But the -- probably the thing that is the most
5 troublesome is the fact that you can't tell the accuracy of an
6 answer, any answer until you know what the question is. And
7 nowhere in the notes were there a series of questions, nowhere.

8 One question here or one question there as Agent LoStracco
9 testified, but nowhere else. And if you remember when reading
10 one statement, Agent LoStracco said, well, I can assume what the
11 question is based on the frame of the answer.

12 The problem with that is that in a situation like
13 this, it's not Agent LoStracco's call; it's yours. The proof
14 needs to be to you beyond a reasonable doubt. And if you
15 remember the interview notes from Mr. Benton, there were typos.
16 They had wrong dates. They had the wrong phraseology. There
17 were just mistakes up and down. She also said -- she admitted
18 that there was tension during the interview. She did not catch
19 conversations at the end of the interview when Mr. Benton was
20 asking to return to continue to work with the agents. She had
21 heard some of it, but none of it was written down.

22 And interestingly, although she gave a question that
23 was -- gave the question in response to, I believe it was
24 Mr. Kravis asking the questions, she gave an exact question, and
25 she gave the answer that she said that she received from

1 Mr. Benton. On cross-examination, when Agent LoStracco was
2 questioned, she answered I don't recall or I don't remember 32
3 different times. When asked about that, she pointed to the
4 volume of documents, which is understandable. When asked about
5 it, she talked about the time differential, the fact that she
6 had been moved to -- moved is probably the wrong word; I believe
7 promoted is the right word -- to the Boston field office.

8 But as you are looking at the charges in Count 5 and
9 trying to consider the context of Mr. Benton giving his answers,
10 keep in mind what you've heard from the witness stand here is
11 that the number of e-mails he gets is breathtaking. That's what
12 Tonya Hester says. John Baeza says that he works on his phone
13 all the time, that he receives thousands of e-mails. And keep
14 in mind this is an interview that went on in 2014, but they're
15 asking questions about events and e-mails in 2011 and 2012.

16 The agent told you she prepped by looking at
17 documents, looking over 302s, looking over notes; but on a lot
18 of the questions that were asked by me on cross-examination, she
19 had to continually refer to her notes or documents. And, look,
20 it's not a criticism. That should happen to all of us.

21 The question that's been posed to you is a legitimate
22 one. And, you know, look, go back and do the experiment
23 yourself. Pick any event, any event, loss of a sibling or a
24 friend, an exam -- matter of fact, pick an exam. Tell us what
25 the second question was.

1 Agent LoStracco is a seasoned veteran. She's clearly
2 a highly trained agent, and I am guessing she's testified
3 numerous times before, unlike Mr. Benton. But on July 21st when
4 Mr. Benton couldn't recall a document, he was charged with false
5 statements. And on July 22nd, after working with his counsel,
6 he said that it looked like he was sloppy, looked like he might
7 be trying to get Kent Sorenson paid; but he was trying, trying
8 his best to give an answer to the questions that were posed.

9 He came down here as the government continually
10 reminds you voluntarily. He came with a proffer agreement. He
11 said he would talk to people. He's trying to give answers.
12 He's trying to remember. This is the essence of him doing
13 something that is clearly not knowing, if I could use that term.

14 And keep in mind when you read these instructions --
15 I'm not going to wrestle with them, but think of whether when
16 Mr. Benton is over a document as he was on July 21st and he's
17 looking at a document, he's struggling trying to remember it.
18 And, you know, look, I've heard the testimony. They're saying
19 that this is something he's got to remember. That's what
20 they're saying. But this is a man who's worked a presidential
21 campaign. This is a man who's been at the feet of some of the
22 most well known and powerful people in this country. And what
23 you know is he does get thousands and thousands of e-mails a
24 day. He deals with all sorts of politically connected and
25 people who have been -- folks who want to move and change this

1 world. Kent Sorenson isn't simply one of those. Sorenson is
2 not a game changer.

3 But imagine, if you will, he's looking at a document,
4 and if his thought is I'm not going to tell a lie I know about
5 this, yeah, he's got a problem. But when you listen to the
6 testimony, when you see what's happening in that interview room,
7 he's not sitting there doing that. He is sitting there looking
8 at a document trying to give the best answers that he can. And
9 actually, according to this table (indicating), some of those
10 answers are incriminating because they use them.

11 Again, as you try to remember key events in your life,
12 as you -- and you try to remember under stressful situations,
13 especially if you believe the FBI is out to do something to you,
14 think about how the elements of this crime fit Mr. Benton, and
15 your conclusion will be that they don't.

16 Now, what the government has done is they have given
17 you all of this information to kind of tell you, give you the
18 background of what's happening. And so the question is, how do
19 you get to the interview room on July 21, 2014? Without a doubt
20 the key player is Kent Sorenson, and you've met him, and as I've
21 said before, you've heard from this table and Mr. Binnall, it's
22 undeniable, the man is a liar. As he was leaving the Bachmann
23 Campaign, he admitted to lying to Aaron Dorr, Chris Dorr, Paul
24 Dorr, Dennis Fusaro, lied to Michelle Bachmann, lied to a Fox
25 newscaster apparently, Megyn Kelly. He lied to agents who tried

1 to serve the search warrant on his home. But yet what the
2 government does is he's the person that they rely on to describe
3 the Tuesday, December 29th, meeting over at the Ron Paul
4 campaign headquarters.

5 Now, keep in mind what you have is, according to
6 Mr. Sorenson, you have Mr. Kesari there with the earpiece
7 cyborged into his ear I think the testimony was, wore it all the
8 time. You have Jared Gamble, you have Jedd Coburn, you have
9 Nick Spanos, and you have Brian Gentry according to
10 Mr. Sorenson, and there's some discrepancies. Mr. Sorenson when
11 asked to describe the room where the December 29th meeting
12 happened, he described one the area of the judge's desk, the
13 judge's bench. Others described a much smaller area. I think
14 Nick Spanos said it was about the size of five of these large
15 screens.

16 But one of the things that he said was that Mr. Benton
17 was at this meeting on the phone with Mr. Kesari. Now, keep in
18 mind that Mr. Benton and Mr. Sorenson met the day before at the
19 rally for Dr. Paul. They met on the 28th among the noise and
20 the chaos of a convention rally, and I know some of you have
21 been to them. They have met among the noise of two people
22 shaking hands before Mr. Sorenson was to walk out on stage. And
23 then the next day he is with Dimitri Kesari, and what he
24 testifies to, what he tells you is that over his earpiece. With
25 a man he's only met once, he essentially is able to identify his

1 voice.

2 There are a couple of things that are remarkable about
3 that. One is no one else -- or at least Mr. Gentry testified
4 you couldn't hear over Mr. Kesari's earpiece. The other is that
5 you would have to believe that Nick Spanos, who you've met; Jedd
6 Coburn, who you have not met; Brian Gentry, who you met, would
7 all sit around talking with a man who has just joined their team
8 about his pay and apparently filing false FEC returns.

9 The other thing you would have to believe is that
10 somehow when they met on the 28th Mr. Benton kind of somehow
11 promised him some money. But if you remember his testimony, if
12 you look back at your notes as you collectively talk about it,
13 he never said that. What he said was that after meeting with
14 them, he believed he would get paid. That was it.

15 The government also calls this a coverup, yet calling
16 it a coverup on one hand, where they have a witness saying on
17 the other that everyone knew. If everyone knew, why is there a
18 coverup? If there's a coverup, why does everybody knew -- know?

19 And the other thing to keep in mind is that in
20 Sorenson's very first meeting with the FBI -- and you saw
21 Mr. Sorenson go through his 302. There is no mention of this
22 meeting, no mention of this meeting. And Agent LoStracco when
23 asked if Mr. Sorenson was ever able to correct a 302 -- well,
24 actually she was asked if any witness was, she said no. When
25 she was shown Mr. Sorenson's clarification 302, she said he had

1 to clear it up because he was not giving the right answers. You
2 know, keep in mind that there is not one, not one witness in
3 this trial, not one person, not one iota of proof that says that
4 Mr. Benton knows anything about the federal election filings.
5 Nobody has said that.

6 Gentry, when you go back to the meeting on December
7 28th -- 29th, never happened. Spanos, never happened. Gamble,
8 passed away, we both know. Coburn wasn't asked, but he did
9 testify that Sorenson told him when they were writing the press
10 release that he was not getting paid.

11 The meeting didn't happen, ladies and gentlemen. That
12 is the most credible evidence. That meeting never happened.

13 One piece of evidence that's really hard to
14 contradict, one piece of evidence that allows you to at least
15 hear Mr. Kent Sorenson without the glare of the public eye is
16 the Fusaro tape, and in that tape, which was made sometime after
17 January 1st, Sorenson clearly says that he has no deal. Watch
18 the tape, look at it, look at the article that sort of targets
19 that date. He had no deal. And then when he is here listening
20 to the tape -- and this was on Friday. When he's watching the
21 clip, he says he was going to give Mr. Kesari his check back.
22 And when asked about that I believe by Mr. Binnall, he said that
23 that was a lie. That's how he was handling it. One other lie
24 to add to the list of lies.

25 It's often said that character is what you do when no

1 one is looking. Mr. Sorenson is a man who has pled guilty to
2 lying under oath. And, you know, the man you saw from the stand
3 last Friday, he's broken. It's been tough for him. It's been a
4 long fall from grace. I think all of us have a hard time really
5 measuring that. He's under a lot of pressure. The Iowa
6 investigation put him under a lot of pressure. And keep in
7 mind, there's no doubt that this case has put him under a lot of
8 pressure because he had to sit in that witness stand. He had to
9 raise his hand, swear he was going to tell the truth, same thing
10 he did in the Iowa Senate investigation, knowing that he hasn't
11 been sentenced and knowing that this table right here
12 (indicating) holds the key to his freedom, knowing that
13 essentially he's dancing for his supper. He needs to tell them
14 what they need to hear.

15 Now, if you go back to Exhibit 10 and you look at the
16 October 31st e-mail that Mr. Benton sent to Mr. Sorenson, this
17 is the money that's involved. This is it. He offers \$8,000 to
18 Sorenson for work. He offers \$5,000 to Sorenson 's assistant,
19 this is per month, for work. There is no mention of \$25,000
20 which is tied to the jewelry store check, and there is a figure
21 of \$100,000 when you look at that exhibit, the \$100,000 being
22 the contribution that was asked of the Paul Campaign to a PAC
23 that was being started for Mr. Sorenson.

24 One of the problems -- and I'm going to go back to the
25 interview on July 21st. One of the problems in the interview is

1 that the questions are about money. The questions are about
2 money to switch sides, but nobody is dividing up the money
3 saying what money are you talking about. Keep in mind that what
4 Mr. Benton says in his e-mail is that it looks like you're
5 trying to shake us down. That is the \$100,000 figure. But in
6 the same letter he offers fair market value for work, and that's
7 \$8,000.

8 Now, what happened in the indictment and what happened
9 in these discussions and what happened in the July 21st
10 interview is when they talked about money from the government's
11 standpoint, all of that is one ball. Nobody asked Mr. Benton
12 when he is talking about if he knew he got -- Mr. Sorenson got
13 paid, if anybody offered to get him paid. Nobody tried to
14 divide up the \$8,000 from the \$25,000 or even the \$100,000. And
15 so when you're talking about shakedowns, nobody is talking about
16 any amount of salary. When you're talking about shakedowns,
17 nobody is talking about the \$25,000. Mr. Benton didn't know
18 about it. But the \$8,000 is a job.

19 I don't care what anybody else gets up here and says.
20 What you have to remember is what comes from the stand but, more
21 importantly, look at the document. You can ignore me. Look at
22 the document. That's what it tells you.

23 Now, as Mr. Sorenson was considering moving over to
24 the Paul Campaign, he started to get the cold feet, and if you
25 look at Government's Exhibit 37, Jesse Benton says, Pull the

1 deal, we can't rely on him, don't have time for this. And
2 you've seen e-mails from Mr. Benton with, what I will just say,
3 more colorful language. Only so many times do I think I can get
4 away with putting that up.

5 But the government has indicated -- I mean, their
6 argument is that all of these e-mails having Mr. Sorenson move
7 from the Bachmann Campaign over to the Paul Campaign, they're
8 somehow directions in a conspiracy. Ladies and gentlemen, pull
9 those e-mails down, and for those of you who run a business,
10 tell each other, what's the difference between what they're
11 accusing and just somebody doing their job? It's a political
12 campaign. You want to steal votes. You want to bring people in
13 to endorse. That's what they do. That's what all campaigns do,
14 and directing somebody who's a field operative on how to -- on
15 what they're going to do with a state senator, somebody whose
16 position commands the respect of the chairman of a political
17 organization, if they're going to make an allegation that this
18 is somehow directing him to hide things or to move Sorenson
19 surreptitiously, it's got to, it has to, it must come from
20 something other than their mouths. Somebody has got to say it
21 or there's got to be some e-mail. Right now all they've got is
22 things that you can find in any one of your businesses or mine.

23 You know, and then Sorenson shows up on the 28th,
24 remember, vacillates, moves over, comes in at night, drives into
25 the parking lot. Sorenson couldn't remember whether he had

1 flashed his lights when he called Dimitri Kesari. He shows up
2 at the Iowa rally. Why was that happening? One of the things
3 you've got to remember about Sorenson, the other really major
4 characteristic of this man is that he was broke. He needed the
5 money. You know, and, look, when he testified here on Friday,
6 what he said was, I was okay, you know, I was doing all right.
7 But look at Government Exhibit 153. And before he got the wire
8 transfer from the Paul Campaign, he had \$29 in his account, with
9 six kids, two homes. I think under anybody's definition, you're
10 broke. And what he does is he turns to a friend, and he turns
11 to Dimitri Kesari.

12 As you look at your notes, as you discuss this, you
13 will be reminded that Kesari is in constant contact with
14 Mr. Sorenson. He's not only a frequent dinner guest. He not
15 only worked on his campaign. He not only cooks at his home.
16 But we all know about the \$25,000 check that he gave him. He
17 also flew Mr. Kesari (sic) to Florida for an award. Mr. Kesari
18 is a man of grand gestures, that's just who he is; but he had a
19 friend who was struggling. He wanted to help him to move to the
20 Ron Paul camp, and it was Kesari who made that move.

21 Again, just as you heard from the colleagues who were
22 up before us, in the Bachmann Campaign Mr. Kesari worked there
23 and he hid his payments, but he hid his payments having nothing
24 to do with the FEC, everything to do with remaining an Iowa
25 State Senator because they can't take money, they can't take

1 money from a campaign or a PAC, and that's what Sorenson does.
2 He works politics. He needed to hide it. And so when he's
3 moving over, yeah, there's friction because every e-mail you'll
4 see Jesse Benton is saying no, no, no. And you can read the
5 e-mails, and there's a really interesting interpretation by the
6 government and, again, it's an interpretation, and my guess is
7 they'll get up and they'll say the same thing about me, and
8 that's the way the system works, but it's going to be you. Just
9 take a look at it. Just take a look at the e-mails, and what
10 you're going to find is the guy putting up the stop sign is
11 Jesse Benton; but the guy who is moving things, moving the
12 e-mails is Dimitri Kesari.

13 And keep in mind that -- and you heard what was going
14 on essentially from somebody outside the campaign, and that's
15 Sonny Izon, and what Sonny Izon said was Kesari needed to get
16 Sorenson paid because of internal politics at the campaign,
17 nothing about the FEC. This is all about trying to keep
18 Sorenson's pay unknown to the Iowa Ethics Committee. Same deal
19 he had with Michelle Bachmann, he just moved it over. He simply
20 moved it over. And when he shows up, at that time track the
21 e-mails, Benton thought the deal was pulled.

22 And keep in mind who Jesse Benton is, and we haven't
23 talked about him that much, but keep in mind who he is. He is
24 in charge of messaging. He's in charge of communication. He's
25 in charge of making sure that when Ron Paul is seen in the world

1 that people get a nice clear, clean answer. What he was getting
2 from Sorenson was vacillation.

3 What Dimitri Kesari does, he handled field staff.
4 That's who he looked out for.

5 So this isn't Jesse Benton directing Dimitri Kesari as
6 some kind of coverup. It looks like what they are doing, both
7 of them are trying to do their job. You know, you've got the
8 government arguing to you that somehow Benton was afraid of
9 Sorenson being exposed, but -- and, you know, him being exposed
10 would hurt the Ron Paul Campaign. But, I mean, think about it.
11 Why would Jesse Benton threaten to expose Kent Sorenson if he
12 knew, if he knew that the Ron Paul Campaign had given him
13 \$25,000? Why would he do that? Why would you make that threat?
14 And I think the answer is you wouldn't unless you make the
15 threat because you think that what you're exposing Sorenson for
16 is asking for the \$100,000 as in the first e-mail from Aaron
17 Dorr.

18 Sorenson said on the 29th he was told by Kesari that
19 he couldn't cash the check, he had told too many people. He
20 said, we all figured it out. But, again, you're talking to
21 Kesari, you're just trying to move a friend over so he can get
22 paid, and Kesari never tells him who we is. And we is Kesari.

23 Now, I'm going to have you -- I'm not going to talk
24 much about the invoices, but I want you to remember a couple of
25 things when you look at the invoices, and this will be hard to

1 do. You can line them up on the table -- I assume you have a
2 table in there -- and this should be very easy for you. Jesse
3 Benton and John Tate, clearly people who can clear invoices.
4 But look at the invoices. Jesse Benton, John Tate are never,
5 except for two occasions, never on the same e-mail. Dimitri
6 plays one off presumably against the other. And there are tons
7 of e-mails where Dimitri is looking for approval, usually from
8 John Tate, and the government is right, what they have on each
9 one is Jesse approves, Jesse approves, Jesse approves, and what
10 the government argues from that is knowledge. And I'm just
11 going to tell you folks that isn't even close.

12 If I wrote your name on an e-mail right now, sent it
13 to a friend and said, so and so approves, that doesn't mean that
14 you know. All it means is somebody can spell your name
15 correctly. But what I want you to look at -- and I won't put
16 these up. I'm going to let you do this. But when you go back,
17 look at Government Exhibit 85 and look at Government Exhibit
18 84b. And when you do, this is what you're going to find, that
19 the chain, the very bottom e-mail is different. It's from
20 Dimitri -- it's from Sonny to Dimitri sending an invoice. Then
21 it goes up from Dimitri to Fernando Cortes. And what's
22 interesting is as you look at them, they all have the same
23 typing on them, approved by Jesse, Jesse with a small j and then
24 no punctuation, and then after that it says approved, two
25 question marks. And then the response from John Tate is

1 approved.

2 And the reason I point that out to you is this is
3 closer to an automatic signature than any occasion that Jesse
4 Benton is involved in this chain. The subject lines are
5 different. One is a February invoice, one is a March invoice,
6 and the times are just a couple of minutes apart. But the one
7 thing it indicates is that this is closer to a rubber stamp than
8 any proof of Jesse Benton doing anything with this e-mail.

9 And then I want you to take a look at the Sonny Izon
10 e-mails to Dimitri Kesari. All of those e-mails go to not
11 Dimitri's Ron Paul address but to his AOL address. Dimitri
12 Kesari is certainly hiding trying to pay his friend. He's
13 hiding that fact from the campaign, and he's doing it so Kent
14 Sorenson is not outed to the Iowa State -- the Iowa Senate
15 Ethics Committee. That's why he's doing it. That's what the
16 facts show.

17 The federal election filing is just one of those
18 fallouts from it, but it certainly isn't what Mr. Kesari is
19 trying to accomplish and it certainly doesn't show that Jesse
20 Benton knows.

21 And, you know, the fact that he doesn't know, the fact
22 that he doesn't know is highlighted in Government's Exhibit 61.
23 This is Fernando Cortes, and he sends an e-mail to Jesse Benton
24 saying that these were approved, that -- they're invoices and
25 they're invoices approved, but Fernando is certain that Jesse

1 never approved them, knows that he never approved them.

2 And if you look back at the facts, if you look back at
3 your notebooks, what you're going to see is that no one, there's
4 no witness, there's no document, no one has taken the stand to
5 say that Dimitri Kesari was carrying on instructions from Jesse
6 Benton. That is fiction coming from that table (indicating).
7 No one -- the government wants you to make this inference, but,
8 again, as we talked, the inferences must be reasonable, they
9 must be sensible.

10 And if you look at the e-mails, again, you'll see that
11 Jesse is on an e-mail, John Tate is on an e-mail. They're never
12 together. What you will see is Dimitri Kesari not only limits
13 the information, he channels the information, and the flow of
14 information that does go to Jesse don't say anything close to,
15 Jesse, this is the deal that we made with Kent. Nothing comes
16 close to that.

17 And then as you're looking at what goes on and you do
18 see this is the deal for Kent, keep in mind -- my bet is that
19 the government can't show you because they didn't check -- there
20 is a Kent at the Ron Paul Campaign, Kent Fite, F-I-T-E is his
21 name. And, again, he's married to one of Ron Paul's
22 granddaughters. We don't know who -- what they're talking
23 about; but, again, that's one of these inferences that they jump
24 to without doing their homework, and you find a lot of that with
25 this investigation.

1 Ladies and gentlemen, you know, the government talks
2 about all of these folks you're going to hear about who had
3 money hidden in this Sorenson-Kesari deal. They're going to say
4 that Jesse Benton is involved. But the only person who says
5 that, the only person who says that is Kent Sorenson.

6 You know, they talk about Jesse Benton wanting to win
7 at whatever cost; but other than them saying it, you've heard it
8 from nobody from that stand. As a matter of fact, if you
9 remember the witnesses who came in from the campaign, Dr. Paul,
10 John Baeza, Tonya Hester, Brian Gentry, they painted a much
11 different picture of a very, very hardworking man. Keep in mind
12 how he traveled. Keep in mind what he was doing.

13 This (indicating) is just a representation of the
14 trips that he took during the time, and you're not going to have
15 this, but you're going to have the calendar and that is where
16 this is pulled from. This is a man who traveled to 40 states in
17 40 days with the candidate. This is a guy who worked himself to
18 exhaustion in December of 2011, pulled himself out of the
19 hospital so he could be at the Ron Paul Rally on December 29th.

20 And what you've heard from the stand about Jesse
21 Benton, from a New York City police officer who is clearly going
22 to go to the mat for him, from his wife's grandfather, concern
23 and clearly love. Brian Gentry, Baeza, Dr. Paul, Tonya Hester,
24 they've all made time to make sure they could testify, and they
25 have. And one of the things you heard from Dr. Paul is that he

1 trusts and supports his grandson -- grandson-in-law. He was Ron
2 Paul's right-hand man. Remember, Ron Paul didn't know how to
3 operate the e-mails. Jesse Benton took care of that for him,
4 was on the e-mail from daylight to sundown and later.

5 Of course, he needed the votes. This is all about
6 getting elected. It's not American Idol. This is a democratic
7 system. The person with the most votes gets the office. But he
8 was a family man, worked himself to exhaustion. You heard he's
9 not a micromanager. He wants Dimitri Kesari and anybody else in
10 the field to do their jobs, and he's going to let them. You
11 heard that from John Baeza. Again, he traveled constantly. And
12 Kent Sorenson, for all of his faults, was an Iowa State Senator,
13 and so the interface with the chairman of the committee is
14 exactly the respect that office deserves. You should read
15 nothing into that other than Jesse Benton understanding the
16 social work and the social politics of our democratic system.

17 And when you look at what he's done and you look at
18 where he is and you look at who he is, you look at where he's
19 been, at such a young age to have this kind of accomplishment
20 and one of the top families that this country knows, I mean,
21 you're going to have to believe that he wants to tarnish that,
22 tarnish Dr. Paul in the name of \$8,000 a month. It just doesn't
23 make sense. It only makes sense in their theory, nobody else's.

24 You know, Mr. Pilger told you that Mr. Sorenson has
25 owned up to his lies, that somehow now that he's with the

1 government he has kind of figured things out; but the one thing
2 we know about Mr. Sorenson is that when things get tough, when
3 he's pushed into a corner, as he is now, his protection
4 mechanism is lying.

5 We know that Dimitri Kesari is a really dedicated
6 friend. And we know that -- and he knows that his friend was
7 broke. We know that Jesse Benton as the chair needed to show
8 respect to a state senator; but after he showed that respect,
9 after he did the recruiting, after he brings the guy on board,
10 he goes back to what he does, and that's being with the
11 candidate. And then Dimitri is supposed to do what he does,
12 which is taking care of the field staff.

13 And what you have when you look at how the campaign is
14 spread out, do you remember that description, they're in
15 different states, New Hampshire, Nevada, here in Iowa, South
16 Carolina. When they're spread out like that and Dimitri is
17 trying to help somebody, you've got one of the co-chairs in
18 Virginia, John Tate. You've got, as you can see, Jesse Benton
19 all over the country. You have Fernando Cortes in the State of
20 Virginia. And what you have, if you will, is a perfect storm.
21 There's just no way for Jesse Benton to know. It's not his job
22 to know. His job is being with the candidate, scheduling,
23 communicating.

24 Now, I've tried as best I can to give you that
25 scenario based on the facts that have come out of that chair

1 (indicating) and are going to be sitting on that table
2 (indicating). And if you'll remember Ms. Sinfelt giving the
3 opening, what she asked you to do is not assume what any
4 document means. Make the government prove to you what the
5 document means. And so this all comes back, if you will, to the
6 place I asked you to be when we first started, and that is
7 July 21st of 2014 in the interview room.

8 On July 21st the prosecutors had already made up their
9 mind. Mr. Benton had no chance. You heard Agent LoStracco
10 describing a tense room. The only thing that made these
11 statements seem false is to disagree with their scenario. They
12 don't have anything else. I mean, they do a little -- you know,
13 his name is written on an invoice, no indication that he got it.
14 But what they want you to do is believe Agent LoStracco. She's
15 been wrong. She embellishes. You've got typos all through the
16 report, and she didn't take down the whole thing. There is no
17 recording. There's no way for you to make an independent
18 decision about what Mr. Benton did in that room a year ago, a
19 year plus ago.

20 And what the prosecution team was doing was asking him
21 about information that had been hidden from him by a colleague
22 and supported by a man who's dancing for his liberty. He's got
23 to please these guys.

24 The element, again, is that the government has to
25 prove that Mr. Benton made a false statement that he knew was

1 false at the time and was material to the function of the FBI.
2 The materiality element that in itself should have you enter a
3 verdict of not guilty because, clearly, whatever Mr. Benton was
4 going to do was not going to affect the FBI in investigating.
5 They were going to continue, and by the time Mr. Benton had
6 gotten there, they had made up their mind.

7 Mr. Benton clearly didn't know about Sorenson's
8 payments, and there's nothing that connects him to them. Two
9 e-mails, one telling Mr. -- the "yo handle" telling Mr. Kesari
10 to handle his own work, and the other never got to him. We
11 don't know where it came from, but what's really interesting is
12 neither do they.

13 In the interview he tried to answer the questions.
14 Keep in mind he walks in, hadn't seen the documents before.
15 They're sprung on him. You'll hear that he had plenty of time
16 to work with them, but Agent LoStracco indicated that he was
17 given -- they were given to him the next morning where he worked
18 with his counsel. Not the kind of effort that they gave to Kent
19 Sorenson, not even close. He struggled because he hadn't seen
20 them. He struggled because, frankly, ladies and gentlemen, he
21 had better things to do than to check on Kent Sorenson. He is
22 trying to get someone elected President of the United States.
23 There's no higher office here, with all due respect, Your Honor.

24 The FBI was going to prosecute him no matter what he
25 did and no matter what he said, so these statements are not

1 material. And so I'm going to ask you to do what my colleague
2 asked you to do earlier in the opening statement. I'm going to
3 ask you to do what the evidence demands. I'm going to ask you
4 to do what justice demands. I'm going to ask you to do what
5 people commonly call the right thing, but, more importantly, I'm
6 going to ask you to do what your common sense should tell you,
7 enter a verdict of not guilty for Jesse Benton on Count 5.

8 Thank you, Your Honor.

9 THE COURT: Members of the jury, we've probably got 25
10 minutes left. Raise your hand if you want a break, otherwise
11 we'll go on through.

12 Counsel for the government, you may make the
13 government's rebuttal argument.

14 MR. PILGER: May it please the court.

15 Ladies and gentlemen, thank you for your service. My
16 time is brief, so I'll get right back to work.

17 Mr. Binnall talked about our burden. Again, hold us
18 to every last bit of our burden. Give these defendants the fair
19 trial you promised to give them, and in that fair trial, you
20 will have seen that we have proven that they are guilty.

21 Mr. Howard just said that Mr. Sorenson was hired to do
22 work. No, he wasn't.

23 Could we have Government's Exhibit 60, please?

24 When Mr. Benton was asked about Mr. Sorenson going
25 down to South Carolina, you can see on Government's Exhibit 60

1 (sic) when it loads that Mr. Benton's response was, what would
2 he do?

3 If we can zero in on that.

4 Mr. Benton is the boss. Mr. Benton decides on what
5 people do and why. He decides things like whether or not to put
6 a fork into a United States Representative running for the
7 office of President of the United States. That's the kind of
8 thing that Mr. Benton does. That's his job.

9 What's Mr. Sorenson's job on this campaign? It's to
10 endorse Ron Paul, and that's it. He described for you what it
11 was like to work on real campaigns, including his own and
12 Michelle Bachmann's, to have a full-time job where he needed a
13 salary. It had nothing to do with what he was doing for these
14 guys. He was just taking money for his endorsement. That's not
15 the crime. The coverup is the crime, but it was a completely
16 different thing he was doing over here.

17 Now, Mr. Binnall says the \$25,000 wire that comes at
18 the time of the switch, at first he says, well, this shows that
19 Dimitri Kesari knows about the FEC filings. Later he says,
20 Dimitri Kesari doesn't know anything about the FEC. I don't
21 know which argument he is making; but you know from these
22 e-mails that he is very aware of the quarterly FEC filings, and
23 you know from Fernando Cortes that that's exactly how
24 Mr. Kesari's e-mails about the filings were understood in the
25 campaign.

1 And because that \$25,000 wire came up, because it
2 would have shown up on the FEC filings, what happened? The
3 campaign through Mr. Tate had to step in and wipe it off the
4 books. They had to get rid of that evidence that Mr. Binnall
5 acknowledged. Mr. Binnall says Dimitri Kesari doesn't know
6 about the coding inside this campaign. Who cares? He's
7 tricking Fernando Cortes with the ICT invoices. It doesn't
8 matter what code gets put on there, whether it's any of the
9 codes that were mentioned with Mr. Cortes, printing, copying,
10 whatever. It's all false because what's Mr. Sorenson doing?
11 Nothing. He was paid for his endorsement.

12 Mr. Binnall says that Mr. Kesari had other reasons
13 than the FEC and the FBI to hide what they were doing. Yes, we
14 told you that. All the way through the fall from Halloween,
15 they had other reasons to hide what they're doing. People don't
16 like it. They don't want it getting out. It would offend the
17 candidate. But by the time of the switch, by the time of the
18 Bachmann accusation, by the time of the media inquiries to
19 Mr. Benton that he lied in response to, now they have another
20 reason. Now they know they have to hide it from the public
21 through the FEC. Now they have the FEC and the FBI to worry
22 about.

23 Ladies and gentlemen, this is a simple false
24 statements case as to the FEC. You heard testimony about how
25 complicated FEC matters are. You will see in the court's

1 instructions to you, it is defined, the statute that you're
2 applying, for false statements to the FEC is less than half a
3 page, less than half a page, not the book of densely packed
4 whatevers that might be out there about other FEC matters. This
5 one you have to decide, the judge -- he's already done. He's
6 read it to you. He explained it in half a page. It's that easy
7 to understand. Don't lie to the FEC about who you're paying and
8 what you're paying them for.

9 And you didn't hear one bit of evidence that anyone
10 ever told Kesari or Benton that this was legal, not even
11 Kesari's own expert would agree that you can call money for
12 political support an audiovisual expense. Of course, you can't.

13 Now, for sure that expert wanted to talk about how
14 other things are okay, like using a legitimate contractor to pay
15 a legitimate subcontractor for things they actually do. Nothing
16 actually got done for ICT. No audiovisual production services
17 happened.

18 And Mr. Binnall talks about getting the full story on
19 some things, especially Government's Exhibit 69. Can we have
20 that on the screen?

21 In Government's Exhibit 69, if we can zero in on the
22 text at the bottom, Mr. Binnall would have you believe that the
23 whole story is this has something to do with audiovisual
24 services. But what does it actually have to do with? It has to
25 do with \$33,000. Where did you see that number before? Follow

1 the money. You saw that number on the invoice from Grassroots
2 Strategy. That \$33,000, the only number in that text, is all
3 about paying Kent Sorenson. It has nothing to do with any real
4 video work, and Dimitri Kesari knows that.

5 Dimitri Kesari created a graphic designer in Iowa out
6 of thin air. That graphic designer does not exist. Kent
7 Sorenson exists, and we'll talk about him. He's not a graphic
8 designer. We all know that.

9 And by doing that, he fooled his brother, he fooled
10 Fernando Cortes, he fooled Lori Pyeatt, he fooled Deana Watts,
11 he fooled the FEC, he fooled the people of Iowa right before
12 their caucuses, and it was easy because the family and the
13 campaign staff and the FEC all trusted him. Garbage in, garbage
14 out. He didn't mind throwing garbage in to all of those people.
15 You have no reason to be fooled by that garbage.

16 There is not a fancy expert in the world, let alone
17 one that came into this courtroom, that can change the fact that
18 Kesari lied and Kesari fooled people. Nothing Mr. Binnall has
19 said changes how clearly, how clearly it's been shown Mr. Kesari
20 intended to violate the law. There isn't a fancy expert in the
21 world who can make the simple law the judge read to you in less
22 than half a page into something complicated. And there surely
23 isn't a fancy expert in the world who can turn a paid
24 endorsement by a state senator into a video or a production
25 service. You know, as they say, you can put lipstick on a pig,

1 but it's still a pig.

2 How do we know Mr. Kesari knew this was illegal? I
3 think Mr. Kravis covered that at length, so I'm just going to
4 hit the highlights. He lied to his brother. He lied to
5 Fernando Cortes. He tried to get the Kent Sorenson check back.
6 He tried to alter the Kent Sorenson check. And he was using the
7 FEC as a weapon just as Mr. Kravis said. There was no confusion
8 in his mind about whether the FEC was involved here. There was
9 no confusion about whether these filings might be tax filings.
10 You can use your common sense. You know tax filings are
11 confidential with the government. You all know that. He was
12 using something that was going to be public. You saw that in
13 the press releases. This was a weapon to bolster Kent
14 Sorenson's lie about not being paid.

15 And you noticed, Mr. Binnall said also Dimitri Kesari
16 is not a finance guy. That's right. He's not a finance guy.
17 He's not a tax guy. He's a political guy. He's a guy who's
18 thinking about FEC filings and the effect on the political
19 operation.

20 If we can switch to the Elmo.

21 Mr. Kesari wanted to talk about some transcript. He
22 wanted to talk about the transcript that was highlighted. But
23 just like with the tape he put in, there's some stuff he didn't
24 want to talk about. So you have in Mr. Sorenson's testimony
25 what he highlighted.

1 "In fact, you actually told Mr. Kesari that the
2 Bachmann Campaign people had checked and that it was legal to do
3 it that way, didn't you?"

4 There's an objection.

5 The answer is: "I don't recall telling Mr. Kesari
6 that."

7 He says, "At some point, that was discussed."

8 He doesn't say with who. He doesn't say with who at
9 all.

10 And if you actually go on to what Mr. Binnall didn't
11 show you, the question is: "With Mr. Kesari?"

12 And he says: "I don't recall having that
13 conversation."

14 And Mr. Binnall didn't show you what went before. The
15 question: "And it's because of that that you asked Mr. Kesari
16 to pay through an intermediary, right?"

17 Answer: "I don't remember asking him to pay through a
18 third party."

19 There's no evidence that this was Mr. Sorenson's idea.

20 Turning to venue, you'll see it in the court's
21 instructions, in addition to the instruction you were just read
22 talks about the crime occurring in the Southern District of Iowa
23 and elsewhere, when a crime is done, continued or completed in a
24 district, it can be brought there.

25 Element No. 1 of the offense requires the campaign to

1 make a false report. Dimitri Kesari is part of the campaign.
2 What made the report false was the course of conduct that
3 included payments right here in Polk County, specifically the
4 payments to Sorenson, which if you check Government's Exhibit
5 153 landed at a bank in Indianola, which is in Polk County.

6 Mr. Binnall relies on a typo. There is a typo in the
7 charges and there are typos in the 302. There are typos in lots
8 of peoples' work. This is one of the reasons that lawyers to be
9 careful put in the phrase "in or about," and that is in the
10 charge, the judge has explained it to you, and that is to make
11 sure that if there's a typo, things can go forward. And things
12 can and should go forward when there's no surprise.

13 Was Mr. Binnall surprised? He was gleeful to find a
14 typo. Well, fine, good for him, he found a typo; but he was
15 prepared. He didn't have any trouble defending the charges
16 knowing what was going on. It's just a typo.

17 Both counsel spent a lot of time talking about Kent
18 Sorenson's credibility. Of course, he has credibility problems.
19 He's a criminal. He's part of the conspiracy. He's part of the
20 conspiracy of lies. He spent a lot of time lying. The
21 difference is he has pled guilty to lying. We did that. We
22 made him accountable and made him plead guilty to the lying that
23 he had done. And because he's a liar, of course, he lies to
24 Coburn, of course, he lies to Fusaro, these low level guys.
25 He's a liar at that time. He hasn't signed up to cooperate with

1 the government then. He doesn't have the government and a judge
2 looking over to see if he's being truthful at that time.

3 But, remember, Mr. Sorenson is backed by other
4 evidence on crucial things, the things that matter. He tells
5 you he never met Sonny Izon, never did any work for him. Sonny
6 Izon sat there and told you the same thing. You don't have to
7 take Mr. Sorenson's word for it. You heard from Mr. Izon
8 himself.

9 Dimitri Kesari told you about the \$25,000 wire, and
10 then you see the e-mail he's not on there, wouldn't know about,
11 that proves that he's telling the truth. He says there was a
12 quiet place back stage to meet Jesse Benton and hear Jesse
13 Benton say, you bled for us, we'll take care of you. Well, Ron
14 Paul's own security chief told you that's true. He created that
15 quiet space.

16 On the backtracking trip, Mr. Binnall says there's no
17 corroboration of it. Yes, there is. There's e-mail showing
18 they're still in contact. There's an e-mail that shows what
19 upsets Mr. Kesari, the draft press release, which you can all
20 understand is about to out Mr. Kesari, the political operative,
21 who was behind the check. That scares Mr. Kesari. That
22 explains why he goes to Iowa through Nebraska. That
23 corroborates what Mr. Sorenson says.

24 Mr. Binnall says all there is to worry about, I guess
25 forever during this entire time, was the Iowa ethics

1 investigation. You know that's not true. The FBI and the FEC
2 have jurisdiction here, and you know when Kent Sorenson realized
3 he was in real trouble and was facing the FBI and serious
4 consequences was when Dimitri Kesari came and lifted his shirt
5 and made Sorenson do the same thing. Sorenson wanted to laugh
6 it off, wanted to think it was just an Iowa ethics thing he
7 could handle, but that moment made him realize.

8 Mr. Binnall talks about, well, he's worried about
9 Fusaro, Fusaro was taping people. Ladies and gentlemen,
10 Mr. Fusaro wasn't there. What is there to worry about
11 Mr. Fusaro? It's a total red herring. It has nothing to do
12 with this. It's just kicking up dust. And if Kent Sorenson
13 wanted to lie about that encounter, he could have made it a much
14 better lie. He could have made it be a meeting in the middle of
15 the night in the woods with no moon. He could have had it be
16 somewhere where they didn't have dinner together at
17 Mr. Sorenson's home. If he wanted to lie to you about a
18 mysterious encounter with obstructive conduct, he could have
19 done a lot better job than that.

20 And let me talk about Mr. Howard and Mr. Benton.
21 Mr. Howard talks about Special Agent LoStracco and times that
22 she looked at documents to remember things. Look what she did.
23 We all would. And Mr. Benton had that opportunity for two days
24 with his lawyer. And Agent LoStracco -- I'm not going to go on
25 at length about Agent LoStracco except to tell you that the

1 judge told you to evaluate the witnesses. You get to evaluate
2 them, and what you think of them matters. You saw her testimony
3 for hours. You evaluate how careful was she, how intelligent
4 was she, how methodical was she, and you stack that up against
5 the pile of accusations coming out of Mr. Howard's mouth and you
6 make your own determination about who you have faith in here and
7 who you trust.

8 Agent LoStracco, like every other witness who was up
9 there, everyone that I saw -- and your recollection controls --
10 when they couldn't remember something and they could see a
11 document, they could usually remember. And if they couldn't,
12 they told you they couldn't. Contrast that with Mr. Benton who
13 over two days, with every opportunity to look at the documents,
14 with his lawyer there, with a night to think about it, with time
15 to meet alone, continued over and over again to lie about what
16 had happened, to lie about how the payments to Kent Sorenson
17 were not known to him. Of course, he knew. He's in on the
18 first approval. He's in on the last approval.

19 I'm not going to belabor this. Mr. Howard would have
20 you believe that Mr. Kesari just said Benton approved and that's
21 all that Benton had to do with this. Just focus on the one.

22 Government's Exhibit 87, if we could have that from
23 Sanctions.

24 You've got Dimitri Kesari inquiring about payment, and
25 if we could focus in on Mr. Benton's final response.

1 Mr. Benton, no one else, no rubber stamp. There's no
2 auto signature nonsense created out of thin air to distract you.
3 It says, "Yes - last time." Mr. Kravis explained that at
4 length. I'm not going to belabor it. Last time tells you he
5 knows about the other times. You don't say last time if you
6 don't know there were other times.

7 So when Mr. Howard stands up here and says, how do we
8 know he knew anything about this? There it is in black and
9 white. You don't need Mr. Sorenson for that. Mr. Benton knew,
10 he knew at the time, and he lied about it.

11 If you could put up Exhibit 102.

12 We have an e-mail that you heard deposition testimony
13 from the FBI expert about. It's an e-mail that was only found
14 on Dimitri Kesari's computer when the FBI obtained it and did
15 its forensic review with its forensic experts. And Mr. Howard
16 says, well, why is that? I'm not sure what he's getting at, but
17 let's ask why is that. Is there some reason that Dimitri Kesari
18 would just make up that e-mail and put it on his computer and
19 sit there for the FBI to find? Does that make sense? No.

20 Is there any reason to believe -- is there any reason
21 not to believe the testimony of Special Agent Yoo? No.

22 Is there a reason to believe that Mr. Benton might be
23 motivated to delete the e-mail from other places -- or I'm
24 sorry; that other people like Tate would be motivated to delete
25 the e-mail? When you have e-mail that's incriminating, anyone

1 it went to has a motive to delete it. And when you find it on
2 the sender's computer, just because you don't find it on the
3 recipient's computer doesn't mean it didn't happen. There's no
4 alternative explanation that makes sense. Of course, it
5 happened, and the expert testimony was from the metadata it
6 went, it was sent.

7 Mr. Benton went on about how documents were only
8 presented to Mr. Benton at the end of the day one day. Well, I
9 think you might recall this. And we've got the e-mails up. If
10 we could focus in on the top e-mail.

11 I don't know if you can all read that. It's pretty
12 far from you, but this is the e-mail that says, "The deal Jesse
13 agreed to with Kent." It's from Dimitri Kesari, the defendant
14 on trial here, to Mr. Tate explaining when Mr. Tate had
15 forgotten how the ICT mechanism worked, reminding Mr. Tate that
16 this is the deal that Jesse agreed to.

17 And you remember what happened next, right?
18 Immediately Mr. Tate, now reminded of how the thing works, goes
19 back to Fernando Cortes and says approved. The three of them
20 working together. Why do we have it on Mr. Benton's computer --
21 or Mr. Tate's computer? He would delete it. Does that make
22 sense? Yes.

23 Mr. Howard talks about materiality and that is an
24 element. Let me discuss it briefly. When Mr. Benton came in
25 and lied to the FBI for two days, despite every opportunity to

1 correct it, despite Agent LoStracco's best efforts to show him
2 every document she had to give him the opportunity at that time,
3 he wouldn't stop lying. So then what happened? The
4 investigation continues. Mr. Benton, as you heard, did not go
5 into the grand jury. The FBI has to go and do more work. Just
6 not answering the question truthfully in a case that's about the
7 payments is clearly material. It influences what the FBI then
8 has to do. They have to do more work and they can't do the work
9 they intended to do.

10 Could we have 61, please?

11 THE COURT: You've just got a couple of minutes left.

12 MR. PILGER: Yes, Your Honor.

13 Remember 61. This happens in 2013. This shows
14 Fernando Cortes making sure that Jesse Benton knows about the
15 documents that came to Fernando Cortes from Dimitri Kesari
16 saying Benton approved. Remember, Fernando Cortes checked with
17 Tate as things went along, but Fernando Cortes told you when it
18 blew up in the media, he wanted to make sure Mr. Benton was
19 aware just in case something was fishy, and he sent him these
20 documents to make sure that he was aware of it, to remind him of
21 it if he knew, to tell him if he didn't. You know that he knew
22 because he approved the whole scheme. He approved the last
23 payment referencing all the prior ones. He knew. And then
24 Fernando Cortes reminded him in 2013.

25 So he did it in 2012. There's a scandal about it all

1 over the place, is Sorenson getting paid, as Mr. Kravis said.
2 Fernando Cortes reminds him, and then he has the interview where
3 he lies over and over again and says, I am not splitting hairs,
4 I'm not trying to divide up the ball of money, I am not
5 splitting hairs, I didn't know he was getting paid directly or
6 through a third party, over and over again.

7 Suddenly there's this Kent Fite figure that comes in
8 at the end of Mr. Howard's argument. I don't know what
9 testimony we've heard about Kent Fite, but I do know you can
10 look at those e-mails, and there's no confusion about who Kent
11 is. You look at them yourself. They're talking about Kent
12 Sorenson, and they're not talking about some relative. They're
13 talking about a money deal to get somebody, and they're talking
14 about F'ing him, and they're talking about all kinds of things
15 you're not saying anything about your family in-law, whatever it
16 is.

17 A couple more points.

18 When Fernando Cortes reminded Mr. Benton in the midst
19 of the investigation about these documents, sent the invoices to
20 him, remember what Mr. Benton didn't say. He didn't say, I
21 don't know what these are. He didn't say, what's this? He
22 didn't say, Dimitri did it, I don't know. All he said was,
23 thanks, Fernando. And then went on into the FBI and lied to
24 Agent LoStracco again and again and again.

25 Finally, ladies and gentlemen, it's time for the

1 verdict. Verdict is an ancient word. It means to speak the
2 truth. As Mr. Kravis told you, now is the time for the lies to
3 end. Now is the time to speak the truth of this case, and that
4 truth is these defendants are both guilty as charged.

5 Thank you.

6 THE COURT: Members of the jury, if you would --

7 MR. BINNALL: May we approach briefly, Your Honor?
8 Very, very briefly.

9 THE COURT: Okay. With the court reporter.

10 (Side-bar conference, out of the hearing of the jury.)

11 MR. BINNALL: I'm moving for mistrial with prejudice
12 because of the insinuation that there was a typo in the jury
13 instructions when there is no typo in the jury instructions
14 appropriately, reference Count 6 of the indictment, and now the
15 jury has the incorrect view that there's a typo in the jury
16 instructions, and there is not. Mr. Kesari has been directly
17 charged for something that happened on August 2014. The only
18 evidence is August 2013.

19 THE COURT: I specifically told the jury that the 2014
20 was in the indictment, though.

21 MR. BINNALL: And just so there's no confusion, at the
22 very least we would ask the court to remind them that it is in
23 the indictment. It is not a typo in the jury instructions.

24 THE COURT: I did it.

25 MS. SINFELT: Could I make a quick record here as

1 well? We didn't object because we didn't feel it was proper to
2 object during rebuttal; but Mr. Pilger offered evidence not
3 admitted in the trial, and that is that the FBI had to work more
4 and work harder due to Mr. Benton's statements, and no FBI agent
5 ever testified about that. I just wanted that on the record.

6 THE COURT: I think it's a reasonable inference from
7 the fact of alleged misstatements.

8 Thanks.

9 MR. BINNALL: Thank you.

10 (In open court, in the presence of the jury.)

11 THE COURT: So if you would pick up your instructions
12 and turn to instruction No. 9 on page 17.

13 (Jury instruction 9 was read by the court.)

14 THE COURT: Attached to it is a copy of the verdict
15 form. That's self-explanatory. And then appended to it as I
16 said earlier in the instructions are a copy of the alleged overt
17 acts associated with the conspiracy charge, Count 1.

18 In just a moment here, you're going to begin your
19 deliberations. Shortly after you begin a copy of each of the
20 exhibits that was admitted into evidence will be sent back for
21 use in your deliberations as well as an index to the exhibits.
22 The original copy of the jury instructions is in this black
23 notebook. It will come back with the exhibits. The verdict
24 form in this book is the one that you should use to record your
25 verdicts.

1 When you deliberate, all 12 of you must remain
2 together. I don't know if any of you are smokers, but sometimes
3 our court security officers will take somebody to the back
4 loading dock to have a cigarette or somebody goes to the
5 bathroom or the like. Whenever those events happen,
6 deliberations stop. All 12 must be together all the time that
7 you are deliberating.

8 You will set your own hours of deliberations, and you
9 can stay in the evening until 5:00 or even 5:30 if that's
10 helpful to you. All we ask is that if you leave on any given
11 evening that you tell the court security officer what time
12 you're coming back in the morning. You can start as early as
13 8:00, but as I told you, you set your hours for deliberations.
14 And so we just want to know so that way we'll be available to
15 address a question or if you arrive at a verdict or whatever.

16 So when you're on jury duty, we want you to be
17 comfortable. We want you to be in communication with work and
18 family and friends, and so we permit you to have cell phones
19 where very few people get to bring a cell phone into the
20 courthouse. But I told you at the beginning of the trial that
21 one of the only things that can be used to impeach a jury's
22 verdict to discredit it is if outside influences are brought to
23 bear on the jurors. That's particularly important -- well, it's
24 equally important all the time, but it's something that
25 heightened attention is paid to during your deliberations.

1 And so once you begin deliberating, you'll be
2 separated from your cell phones. So what I might suggest to you
3 is that before you begin deliberating, just tell them you're
4 going to be out of the pocket until 5:00 or 5:30 today, and if
5 there's somebody that is close to you that needs to get a
6 message to you for any reason, just have them call our federal
7 clerk of court in Des Moines. We can get a message to you
8 immediately. It's happened before. People have called, it's
9 the federal clerk of court, and we've gotten messages to them in
10 seconds after we get the message.

11 All right. Here is my least favorite part of the
12 trial, and that's excusing the alternate jurors because you know
13 we absolutely have to have alternate jurors. God forbid, if
14 something happens to one of you during the course of this trial,
15 we have to continue. We can't stop. So in this case, given the
16 projected length, we selected two alternate jurors in this case,
17 and your job is almost done. It's Ms. Rubel and Mr. Dutcher,
18 you're the alternate jurors in this case. So as the jurors
19 leave the courtroom, your jury service is, as I said, almost
20 done. It's common for people to say goodbye to friends they've
21 met and worked with for the last week. I ask, though, that you
22 not tell them though what your verdict might have been.

23 And then here is the second thing when I say your work
24 is almost done, I'm going to ask you to do this, I'm going to
25 instruct you to do this, not to discuss this case with anyone.

1 Keep the same rules that you've kept throughout the entire trial
2 until we notify you that a verdict has been reached. If during
3 deliberations something happens to one of the other jurors, we
4 would bring you back and we would start the deliberations all
5 over from the start. And so we will call you when there's a
6 verdict in this case, and until then I ask you not to discuss
7 this case amongst yourselves or remain within earshot of anyone
8 discussing it. You're not to read any newspaper account, listen
9 to any radio or TV broadcast that might be published about this
10 case. And we'll get back to you as soon as there is a verdict.
11 But we want to preserve that ability for you to deliberate
12 should there be a problem during the deliberations, which there
13 never is.

14 So, as I said to the other jurors, I won't see you if
15 you leave tonight without a verdict, but I would just ask that
16 you tell the court security officer when you leave what time
17 you're coming back in the morning and that you heed that
18 admonition that I've given you and that I just gave the other
19 jurors all along about not discussing this case, not listening
20 to any outside sources about it until the verdict has been
21 returned.

22 So the alternates, when you go, take your notes and
23 your copy of the instructions with you and preserve them and
24 don't show them to anyone.

25 The rest of you, you're excused as well. It's time to

1 begin your deliberations. So take your notes, your copies of
2 the instructions, anything you've got there, and you can retire
3 to begin your deliberations.

4 (Jury out to deliberate at 3:30 p.m.)

5 (In open court, out of the presence of the jury.)

6 THE COURT: Please be seated.

7 I understand earlier today that you satisfied each
8 other and the courtroom deputy here that she has all of the
9 appropriate exhibits to be sent back to the jury. We do have a
10 laptop computer that is dedicated just for the jury. That means
11 it doesn't have access to the Internet. It has no other
12 programs on it. It can just run DVDs and display things that
13 you've submitted on CD's. So that will be provided as well.

14 My expectation is that you be back in the courtroom
15 within ten minutes after receiving a call. Mr. Benton and
16 Mr. Kesari are constitutionally entitled to hear and be present
17 even when a question is asked by the jury, so we would ask that
18 everybody return within ten minutes of being notified that
19 there's a question or a verdict. If for some reason we can't
20 get ahold of you, we'll have to answer the question without you,
21 and we don't want to do that.

22 We will answer -- the only questions that we'll answer
23 without your input is a request for more papers and pens and
24 very ministerial things like that. Anything of any significance
25 will be told to you. So don't leave without giving Ms. Archer

1 your cell phone numbers at which you can be reached.

2 Is there anything further that you want to make a
3 record of?

4 Counsel for the government?

5 MR. PILGER: Your Honor, I need to put the original of
6 133 on the table, and there's nothing further.

7 THE COURT: Okay. I understand that you're concerned
8 about the jury having that. I've got a great story for you
9 about a juror stealing an exhibit once in a trial. It wasn't a
10 criminal case.

11 Mr. Binnall, do you have anything else?

12 MR. BINNALL: No, Your Honor.

13 THE COURT: Mr. Howard?

14 MR. HOWARD: No, Your Honor.

15 THE COURT: Thanks.

16 We're in recess.

17 (Recess at 3:34 p.m.)

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